

PERSONS WITH MENTAL RETARDATION

222.1 Purpose of state resource centers.

1. The Glenwood state resource center and the Woodward state resource center are established and shall be maintained as the state's regional resource centers for the purpose of providing treatment, training, instruction, care, habilitation, and support of persons with mental retardation or other disabilities in this state, and providing facilities, services, and other support to the communities located in the region being served by a state resource center. In addition, the state resource centers are encouraged to serve as a training resource for community-based program staff, medical students, and other participants in professional education programs. A resource center may request the approval of the council on human services to change the name of the resource center for use in communication with the public, in signage, and in other forms of communication.

2. A special mental retardation unit may be maintained at one of the state mental health institutes for the purposes set forth in sections 222.88 to 222.91.

[S13, § 2727-a93, -a95; SS15, § 2727-a93, -a96; C24, 27, 31, 35, 39, § 3465, 3468; C46, 50, 54, 58, 62, § 223.1, 223.4; C66, 71, 73, 75, 77, 79, 81, § 222.1]

95 Acts, ch 82, §6; 98 Acts, ch 1155, §8; 2000 Acts, ch 1112, §46

222.2 Definitions.

When used in this chapter, unless the context otherwise requires:

1. "*Administrator*" means the person assigned by the director of human services, in accordance with section 218.1, to control the state resource centers.

2. "*Auditor*" means the county auditor or the auditor's designee.

3. "*Central point of coordination process*" means the same as defined in section 331.440.

4. "*Department*" means the department of human services.

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

6. "*Special unit*" means a special mental retardation unit established at a state mental health institute pursuant to sections 222.88 to 222.91.

7. "*State resource centers*" or "*resource centers*" means the Glenwood state resource center and the Woodward state resource center.

8. "*Superintendents*" means the superintendents of the state resource centers.

[C97, § 2699; C24, 27, 31, 35, 39, § 3411; C46, 50, 54, 58, 62, § 222.1; C66, 71, 73, 75, 77, 79, 81, § 222.2; 81 Acts, ch 78, § 20, 30]

83 Acts, ch 96, § 157, 159; 94 Acts, ch 1170, §35; 96 Acts, ch 1183, § 1; 97 Acts, ch 169, § 14; 2000 Acts, ch 1112, §4750; 2001 Acts, ch 155, §14; 2004 Acts, ch 1090, §33

222.3 Superintendents.

The administrator shall appoint a qualified superintendent for each of the resource centers who shall receive such salary as the administrator shall determine.

[SS15, § 2727-a96; C24, 27, 31, 35, 39, § **3466**; C46, 50, 54, 58, 62, § 223.2; C66, 71, 73, 75, 77, 79, 81, § 222.3]

2000 Acts, ch 1112, §51

222.4 Duties.

The superintendents shall:

1. Perform all duties required by law and by the administrator not inconsistent with law.
2. Oversee and insure individual treatment and professional care of each patient in the resource centers.
3. Maintain a full and complete record of the condition of each patient in the resource centers.
4. Have custody, control, and management of all patients in such manner as deemed best subject to the regulations of the administrator.

[SS15, § 2727-a96; C24, 27, 31, 35, 39, § **3467**; C46, 50, 54, 58, 62, § 223.3; C66, 71, 73, 75, 77, 79, 81, § 222.4]

2000 Acts, ch 1112, §51

222.5 Preadmission diagnostic evaluation.

No person shall be eligible for admission to a resource center or a special unit until a preadmission diagnostic evaluation has been made by a resource center or a special unit which confirms or establishes the need for admission.

[C24, 27, 31, 35, 39, § **3444**; C46, 50, 54, 58, 62, § 222.34; C66, 71, 73, 75, 77, 79, 81, § 222.5]

2000 Acts, ch 1112, §51

222.6 State districts.

The administrator shall divide the state into two districts in such manner that one of the resource centers shall be located within each of the districts. Such districts may from time to time be changed. After such districts have been established, the administrator shall notify all boards of supervisors, county auditors, and clerks of the district courts of the action. Thereafter, unless the administrator otherwise orders, all admissions or commitments of persons with mental retardation from a district shall be to the resource center located within such district.

[C24, 27, 31, 35, 39, § **3476**; C46, 50, 54, 58, 62, § 223.10; C66, 71, 73, 75, 77, 79, 81, § 222.6]

96 Acts, ch 1129, § 113; 2000 Acts, ch 1112, §51

222.7 Transfers.

The administrator may transfer patients from one state resource center to the other and may at any time transfer patients from the resource centers to the hospitals for persons with mental illness, or transfer patients in the resource centers to a special unit or vice versa. The administrator may also transfer patients from a hospital for persons with mental illness to a resource center if:

1. In the case of a patient who entered the hospital for persons with mental illness voluntarily, consent is given in advance by the patient or, if the patient is a minor or is incompetent, the person responsible for the patient.
2. In the case of a patient hospitalized pursuant to sections 229.6 to 229.15, the consent of the court which hospitalized the patient is obtained in advance, rather than afterward as otherwise permitted by section 229.15, subsection 3.

[SS15, § 2727-a96; C24, 27, 31, 35, 39, § 3456, 3472, 3477; C46, 50, 54, 58, 62, § 222.46, 223.8, 223.11; C66, 71, 73, 75, 77, 79, 81, § 222.7]

83 Acts, ch 96, § 71, 159; 96 Acts, ch 1129, § 113; 2000 Acts, ch 1112, §51

222.8 Communications by patients.

Persons admitted to the resource centers or a special unit shall have all reasonable opportunity and facility for communication with their friends. Such persons shall be permitted to write and send letters, provided the letters contain nothing of an offensive character. Letters written by any patient to the administrator or to any state or county official shall be forwarded unopened.

[C24, 27, 31, 35, 39, § 3445; C46, 50, 54, 58, 62, § 222.35; C66, 71, 73, 75, 77, 79, 81, § 222.8]

2000 Acts, ch 1112, §51

222.9 Unauthorized departures.

If any person with mental retardation shall depart without proper authorization from a resource center or a special unit, it shall be the duty of the superintendent and the superintendent's assistants and all peace officers of any county in which such patient may be found to take and detain the patient without a warrant or order and to immediately report such detention to the superintendent who shall immediately provide for the return of such patient to the resource center or special unit.

[C24, 27, 31, 35, 39, § 3460; C46, 50, 54, 58, 62, § 222.50; C66, 71, 73, 75, 77, 79, 81, § 222.9]

96 Acts, ch 1129, § 113; 2000 Acts, ch 1112, §51

222.10 Duty of peace officer.

When any person with mental retardation departs without proper authority from an institution in another state and is found in this state, any peace officer in any county in which such patient is found may take and detain the patient without warrant or order and shall report such detention to the administrator. The administrator shall provide for the return of the patient to the authorities in the state from which the unauthorized departure was made. Pending return, such patient may be detained temporarily at one of the institutions of this state governed by the administrator or by the administrator of the division of child and family services of the department of human services. The provisions of this section relating to the administrator shall also apply to the return of other nonresident persons with mental retardation having legal settlement outside the state of Iowa.

[C58, 62, § 222.55; C66, 71, 73, 75, 77, 79, 81, § 222.10]

83 Acts, ch 96, § 157, 159; 96 Acts, ch 1129, § 113

222.11 Expense.

All actual and necessary expenses incurred in the taking into protective custody, restraint, and transportation of such patients to the resource centers shall be paid on itemized vouchers, sworn to by the claimants, and approved by the superintendent and the administrator from any money in the state treasury not otherwise appropriated.

[C24, 27, 31, 35, 39, § 3461; C46, 50, 54, 58, 62, § 222.51; C66, 71, 73, 75, 77, 79, 81, § 222.11]

2000 Acts, ch 1112, §51

222.12 Deaths investigated.

In the event of a sudden or mysterious death of a patient of a resource center or the special unit or any private institution for persons with mental retardation, an investigation shall be held by the county medical examiner. The superintendent of a resource center or a special unit or chief administrative officer of any private institution may request an investigation of the death of any patient by the county medical examiner. Notice of the death of the patient, and the cause thereof, shall be sent to the county board of supervisors and to the judge of the court having had jurisdiction over a committed patient. The fact of death with the time, place, and alleged cause shall be entered upon the docket of the court. The parent, guardian, or other person responsible for the admission of a patient to such institutions may request an investigation by the county medical examiner in the event of the death of the patient. The person or persons making the request shall be liable for the expense of such investigation and payment therefor may be required in advance. The expense of a county medical examiner's investigation when requested by the superintendent of a state resource center or a special unit shall be paid from support funds of that institution.

[C24, 27, 31, 35, 39, § 3447; C46, 50, 54, 58, 62, § 222.37; C66, 71, 73, 75, 77, 79, 81, § 222.12]

96 Acts, ch 1129, § 113; 2000 Acts, ch 1112, §51

222.13 Voluntary admissions.

1. If an adult person is believed to be a person with mental retardation, the adult person or the adult person's guardian may submit a request through the central point of coordination process for the county board of supervisors to apply to the superintendent of any state resource center for the voluntary admission of the adult person either as an inpatient or an outpatient of the resource center. After determining the legal settlement of the adult person as provided by this chapter, the board of supervisors shall, on forms prescribed by the administrator, apply to the superintendent of the resource center in the district for the admission of the adult person to the resource center. An application for admission to a special unit of any adult person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon request of the adult person or the adult person's guardian. The superintendent shall accept the application providing a preadmission diagnostic evaluation, performed through the central point of coordination process, confirms or establishes the need for admission, except that an application may not be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

2. If the resource center has no appropriate program for the treatment of an adult or minor person with mental retardation applying under this section or section 222.13A, the board of supervisors shall arrange for the placement of the person in any public or private facility within or without the state, approved by the director

of the department of human services, which offers appropriate services for the person, as determined through the central point of coordination process.

3. Upon applying for admission of an adult or minor person to a resource center, or a special unit, or upon arranging for the placement of the person in a public or private facility, the board of supervisors shall make a full investigation into the financial circumstances of that person and those liable for that person's support under section 222.78 to determine whether or not any of them are able to pay the expenses arising out of the admission of the person to a resource center, special treatment unit, or public or private facility. If the board finds that the person or those legally responsible for the person are presently unable to pay the expenses, the board shall direct that the expenses be paid by the county. The board may review its finding at any subsequent time while the person remains at the resource center, or is otherwise receiving care or treatment for which this chapter obligates the county to pay. If the board finds upon review that the person or those legally responsible for the person are presently able to pay the expenses, the finding shall apply only to the charges incurred during the period beginning on the date of the review and continuing thereafter, unless and until the board again changes its finding. If the board finds that the person or those legally responsible for the person are able to pay the expenses, the board shall direct that the charges be so paid to the extent required by section 222.78, and the county auditor shall be responsible for the collection of the charges.

[C24, 27, 31, 35, 39, § 3464, 3477.2; C46, 50, 54, 58, 62, § 222.54, 223.13; C66, 71, 73, 75, 77, 79, 81, § 222.13]

83 Acts, ch 96, § 157, 159; 95 Acts, ch 82, §7; 96 Acts, ch 1183, § 2; 97 Acts, ch 169, § 2; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33

222.13A Voluntary admissions minors.

1. If a minor is believed to be a person with mental retardation, the minor's parent, guardian, or custodian may request the county board of supervisors to apply for admission of the minor as a voluntary patient in a state resource center. If the resource center does not have appropriate services for the minor's treatment, the board of supervisors may arrange for the admission of the minor in a public or private facility within or without the state, approved by the director of human services, which offers appropriate services for the minor's treatment.

2. Upon receipt of an application for voluntary admission of a minor, the board of supervisors shall provide for a preadmission diagnostic evaluation of the minor to confirm or establish the need for the admission. The preadmission diagnostic evaluation shall be performed by a person who meets the qualifications of a qualified mental retardation professional who is designated through the central point of coordination process.

3. During the preadmission diagnostic evaluation, the minor shall be informed both orally and in writing that the minor has the right to object to the voluntary admission. If the preadmission diagnostic evaluation determines that the voluntary admission is appropriate but the minor objects to the admission, the minor shall not be admitted to the state resource center unless the court approves of the admission. A petition for approval of the minor's admission may be submitted to the juvenile court by the minor's parent, guardian, or custodian.

4. As soon as practicable after the filing of a petition for approval of the voluntary admission, the court shall determine whether the minor has an attorney to represent the minor in the proceeding. If the minor does not have an attorney, the court shall assign to the minor an attorney. If the minor is unable to pay for an attorney, the attorney shall be compensated by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

5. The court shall order the admission of a minor who objects to the admission, only after a hearing in which it is shown by clear and convincing evidence that both of the following circumstances exist:

a. The minor needs and will substantially benefit from treatment or habilitation.

b. A placement which involves less restriction of the minor's liberties for the purposes of treatment or habilitation is not feasible.

95 Acts, ch 82, §8; 96 Acts, ch 1183, § 3; 99 Acts, ch 135, §15; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33

222.14 Care by county pending admission.

If the institution is unable to receive a patient, the superintendent shall notify the county board of supervisors of the county from which the application in behalf of the prospective patient was made of the time when such person may be received. Until such time as the patient is able to be received by the institution, or when application has been made for admission to a public or private facility as provided in section 222.13 and the application is pending, the care of said person shall be provided as arranged by the county board of supervisors.

[C24, 27, 31, 35, 39, § 3433; C46, 50, 54, 58, 62, § 222.23; C66, 71, 73, 75, 77, 79, 81, § 222.14]

222.15 Discharge of patients admitted voluntarily.

This section applies to any person who was voluntarily admitted to a state resource center or other facility in accordance with the provisions of section 222.13 or 222.13A. Except as otherwise provided by this section, if the person or the person's parent, guardian, or custodian submits a written request for the person's release, the person shall be immediately released.

1. If the person is an adult and was admitted pursuant to an application by the person or the person's guardian and the request for release is made by a different person, the release is subject to the agreement of the person voluntarily admitted or the person's guardian, if the guardian submitted the application.

2. If the person is a minor who was admitted pursuant to the provisions of section 222.13A, the person's release prior to becoming eighteen years of age is subject to the consent of the person's parent, guardian, or custodian, or to the approval of the court if the admission was approved by the court.

3. *a.* If the administrator of the facility in which the patient is admitted certifies that in the administrator's opinion the release of the person would be contrary to the safety of the person or the community, the release may be postponed by a court order. The administrator's certification shall be filed with the clerk of the district court for the county in which the facility is located no later than one day following the submission of the written request for release. The period of postponement shall be the period of time the court determines necessary to permit the commencement of judicial proceedings for the person's involuntary commitment. The period of postponement shall not exceed five days unless the period of postponement is extended by court order for good cause shown.

b. If a petition for the person's involuntary commitment is timely filed, the administrator may detain the person in the facility and provide treatment until disposition of the petition. The treatment shall be limited to that necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to the person or to others if allowed to continue. The administrator shall not otherwise provide treatment to the person without the person's consent.

[SS15, § 2727-a96; C24, 27, 31, 35, 39, § 3473; C46, 50, 54, 58, 62, § 223.9; C66, 71, 73, 75, 77, 79, 81, § 222.15]

95 Acts, ch 82, §9; 2000 Acts, ch 1112, §51

222.16 Petition for adjudication of mental retardation.

A petition for the adjudication of the mental retardation of a person within the meaning of this chapter may, with the permission of the court, be filed without fee against a person with the clerk of the district court of the county or city in which the person who is alleged to have mental retardation resides or is found. The petition may be filed by any relative of the person, by a guardian, or by any reputable citizen of the county where the person who is alleged to have mental retardation resides or is found.

Commitment of a person pursuant to section 222.31 does not constitute a finding or raise a presumption that the person is incompetent to vote. The court shall make a separate determination as to the person's competency to vote. The court shall find a person incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

[C24, 27, 31, 35, 39, § 3413; C46, 50, 54, 58, 62, § 222.3; C66, 71, 73, 75, 77, 79, 81, § 222.16]

96 Acts, ch 1129, §44; 98 Acts, ch 1185, §6

222.16A Judicial proceedings.

1. The chief judge of a judicial district may appoint one or more judicial hospitalization referees for each county in the district to discharge the duties imposed on the court by this chapter. The judicial hospitalization qualification provisions of section 229.21 shall apply to referees appointed under this section in performing duties pursuant to this chapter. An order or findings by a referee pursuant to this chapter may be appealed to a judge of the district court by filing notice with the clerk of the district court within seven days after the findings or order is made, and hearing by the district court shall be de novo. The court shall schedule a hearing before a district judge at the earliest practicable time.

2. The juvenile court has exclusive original jurisdiction in any court proceedings concerning a minor pursuant to this chapter.

95 Acts, ch 82, §10

222.17 Allegations verified.

The petition shall be verified by affidavit, may be filed on information or belief, and shall:

1. Allege that such person is mentally retarded within the meaning of this chapter.
2. Allege that the filing of the petition is conducive to the welfare of such person and of the community.
3. List the name and residence of all known persons supervising, caring for, or supporting such person, or assuming, or under obligation to do so.
4. List the name and residence, if known, of the parents of such person and of all other persons legally chargeable with the supervision, care, or support of such person.
5. List the names of all obtainable witnesses known to the petitioner by which the allegations of the petition may be established.
6. State whether such person has been examined by a qualified physician with a view of determining the person's mental condition.

[C24, 27, 31, 35, 39, § 3414, 3415; C46, 50, 54, 58, 62, § 222.4, 222.5; C66, 71, 73, 75, 77, 79, 81, § 222.17]

222.18 County attorney to appear.

The county attorney shall, if requested, appear on behalf of any petitioner for the commitment of a person alleged to be mentally retarded under this chapter, and on behalf of all public officials and superintendents in all matters pertaining to the duties imposed upon them by this chapter.

Upon the filing of the petition, the court shall enter an order directing the county attorney of the county in which the person who is alleged to have mental retardation resides to make a full investigation regarding the financial condition of that person and of those persons legally liable for that person's support under section 222.78.

[C24, 27, 31, 35, 39, § 3412; C46, 50, 54, 58, 62, § 222.2; C66, 71, 73, 75, 77, 79, 81, § 222.18]

84 Acts, ch 1299, § 1; 96 Acts, ch 1129, § 45

222.19 Party respondents.

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

1. The parent or parents of said principal person.
2. The person with whom said principal person is living.
3. The person or persons assuming to give the principal respondent care and attention.
4. The guardian, if there be such, of the person or property of the principal respondent.

[C24, 27, 31, 35, 39, § 3416; C46, 50, 54, 58, 62, § 222.6; C66, 71, 73, 75, 77, 79, 81, § 222.19]

222.20 Notice served.

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

[C24, 27, 31, 35, 39, § 3417; C46, 50, 54, 58, 62, § 222.7; C66, 71, 73, 75, 77, 79, 81, § 222.20]

Footnotes

Manner of service, R.C.P. 1.3021.315

222.21 Order requiring attendance.

If the person alleged to have mental retardation is not before the court, the court may issue an order requiring the person who has the care, custody, and control of the person who is alleged to have mental retardation to bring the person into court at the time and place stated in the order.

[C24, 27, 31, 35, 39, § 3417; C46, 50, 54, 58, 62, § 222.7; C66, 71, 73, 75, 77, 79, 81, § 222.21]

96 Acts, ch 1129, §46

222.22 Time of appearance.

The time of appearance shall not be less than five days after completed service unless the court orders otherwise. Appearance on behalf of the person who is alleged to have mental retardation may be made by any citizen of the county or by any relative. The district court shall assign counsel for the person who is alleged to have mental retardation. Counsel shall prior to proceedings personally consult with the person who is alleged to have mental retardation unless the judge appointing counsel certifies that in the judge's opinion, consultation shall serve no useful purpose. The certification shall be made a part of the record. An attorney assigned by the court shall be compensated by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

[C24, 27, 31, 35, 39, § 3418; C46, 50, 54, 58, 62, § 222.8; C66, 71, 73, 75, 77, 79, 81, § 222.22]

96 Acts, ch 1129, § 47; 99 Acts, ch 135, §16

222.23 Persons to be present.

At any hearing for commitment under this chapter, the person whose commitment is sought, the person's appointed counsel, the person's own attorney, if any, and any physician or psychologist whose testimony is to be made a part of the record shall be present unless the presiding judge shall determine that the presence will not be in the best interest of the person whose commitment is sought. Such determination shall be made a part of the record.

[C66, 71, 73, 75, 77, 79, 81, § 222.23]

222.24 When held.

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

[C24, 27, 31, 35, 39, § 3419; C46, 50, 54, 58, 62, § 222.9; C66, 71, 73, 75, 77, 79, 81, § 222.24]

222.25 Custody pending hearing.

Pending final hearing, the court may at any time after the filing of the petition and on satisfactory showing that it is in the best interest of the person who is alleged to have mental retardation and of the community that the person be at once taken into custody, or that service of notice will be ineffectual if the person is not taken into custody, issue an order for the immediate production of the person before the court. In such case, the court may make any proper order for the custody or confinement of the person as will protect the person and the community and insure the presence of the person at the hearing. The person shall not be confined with those accused or convicted of crime.

[C24, 27, 31, 35, 39, § 3420; C46, 50, 54, 58, 62, § 222.10; C66, 71, 73, 75, 77, 79, 81, § 222.25]

96 Acts, ch 1129, §48

222.26 Hearing in equity.

The hearing on the allegations of the petition shall be as in equity proceedings. Answers to allegations shall not be required but may be filed. The court may require the petitioner to answer under oath such

interrogatories as may be propounded by said court.

[C24, 27, 31, 35, 39, § 3421, 3422; C46, 50, 54, 58, 62, § 222.11, 222.12; C66, 71, 73, 75, 77, 79, 81, § 222.26]

222.27 Hearing in public.

Hearings shall be public, unless otherwise requested by the parent, guardian, or other person having the custody of the person with mental retardation, or if the judge considers, a closed hearing in the best interests of the person with mental retardation.

[C24, 27, 31, 35, 39, § 3423; C46, 50, 54, 58, 62, § 222.13; C66, 71, 73, 75, 77, 79, 81, § 222.27]

96 Acts, ch 1129, § 113

222.28 Commission to examine.

The court may, at or prior to the final hearing, appoint a commission of one qualified physician and one qualified psychologist, designated through the central point of coordination process, who shall make a personal examination of the person alleged to be mentally retarded for the purpose of determining the mental condition of the person.

[C24, 27, 31, 35, 39, § 3424; C46, 50, 54, 58, 62, § 222.14; C66, 71, 73, 75, 77, 79, 81, § 222.28]

96 Acts, ch 1183, §4; 2004 Acts, ch 1090, §33

222.29 Report.

Said commission shall report in writing to the court the facts attending the mental condition of said person, its conclusion based thereon, and its recommendations concerning such person. The commission shall also report to the court sworn answers to such questions as may be required by the court. Such reports shall be filed with the clerk of the court.

[C24, 27, 31, 35, 39, § 3425; C46, 50, 54, 58, 62, § 222.15; C66, 71, 73, 75, 77, 79, 81, § 222.29]

222.30 Ruling on report.

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

[C24, 27, 31, 35, 39, § 3426; C46, 50, 54, 58, 62, § 222.16; C66, 71, 73, 75, 77, 79, 81, § 222.30]

222.31 Commitment liability for charges.

If in the opinion of the court, or of a commission as authorized in section 222.28, the person is mentally retarded within the meaning of this chapter and the court determines that it will be conducive to the welfare of that person and of the community to commit the person to a proper institution for treatment, training, instruction, care, habilitation, and support, and that services or support provided to the family of such a person who is a child will not enable the family to continue to care for the child in the child's home, the court shall by proper order:

1. Commit the person to any public or private facility within or without the state, approved by the director of

the department of human services. If the person has not been examined by a commission as appointed in section 222.28, the court shall, prior to issuing an order of commitment, appoint such a commission to examine the person for the purpose of determining the mental condition of the person. No order of commitment shall be issued unless the commission shall recommend that such order be issued and the private institution to which the person is to be committed shall advise the court that it is willing to receive the person.

2. Commit the person to the state resource center designated by the administrator to serve the county in which the hearing is being held, or to a special unit. The court shall, prior to issuing an order of commitment, request that a diagnostic evaluation of the person be made by the superintendent of the resource center or the special unit, or the superintendent's qualified designee. The evaluation shall be conducted at a place as the superintendent may direct. The cost of the evaluation shall be defrayed by the county of legal settlement unless otherwise ordered by the court. The cost may be equal to but shall not exceed the actual cost of the evaluation. Persons referred by a court to a resource center or the special unit for diagnostic evaluation shall be considered as outpatients of the institution. No order of commitment shall be issued unless the superintendent of the institution recommends that the order be issued, and advises the court that adequate facilities for the care of the person are available.

The court shall examine the report of the county attorney filed pursuant to section 222.13, and if the report shows that neither the person nor those liable for the person's support under section 222.78 are presently able to pay the charges rising out of the person's care in the resource center, or special treatment unit, shall enter an order stating that finding and directing that the charges be paid by the person's county of residence. The court may, upon request of the board of supervisors, review its finding at any subsequent time while the person remains at the resource center, or is otherwise receiving care or treatment for which this chapter obligates the county to pay. If the court finds upon review that the person or those legally responsible for the person are presently able to pay the expenses, that finding shall apply only to the charges incurred during the period beginning on the date of the board's request for the review and continuing thereafter, unless and until the court again changes its finding. If the court finds that the person, or those liable for the person's support, are able to pay the charges, the court shall enter an order directing that the charges be so paid to the extent required by section 222.78.

3. In its order, the court shall include a finding as to whether the person has sufficient mental capacity to comprehend and exercise the right to vote.

[C24, 27, 31, 35, 39, § 3428; C46, 50, 54, 58, 62, § 222.18; C66, 71, 73, 75, 77, 79, 81, § 222.31]

83 Acts, ch 96, § 157, 159; 83 Acts, ch 123, § 81, 209; 84 Acts, ch 1299, § 2, 3; 85 Acts, ch 67, § 23; 92 Acts, ch 1229, § 2; 98 Acts, ch 1185, §7; 2000 Acts, ch 1112, §51

222.32 Committed person under jurisdiction of court.

Any person committed to any private institution shall remain under the jurisdiction of the court and the order of commitment may at any time be set aside or modified by changing the place of commitment or terminating the commitment and appointing a guardian in lieu thereof.

[C24, 27, 31, 35, 39, § 3429; C46, 50, 54, 58, 62, § 222.19; C66, 71, 73, 75, 77, 79, 81, § 222.32]

222.33 Power of guardian. Repealed by 84 Acts, ch 1299, § 19.

222.34 Guardianship proceedings.

If a guardianship is proposed for a person with mental retardation, guardianship proceedings shall be initiated and conducted as provided in chapter 633.

[C24, 27, 31, 35, 39, § 3431; C46, 50, 54, 58, 62, § 222.21; C66, 71, 73, 75, 77, 79, 81, § 222.34]

84 Acts, ch 1299, § 4; 96 Acts, ch 1129, § 113

222.35 No change without notice. Repealed by 84 Acts, ch 1299, § 19.

222.36 Custody pending admission.

If a resource center or a special unit is unable to immediately receive a person committed under section 222.31, subsection 2, the superintendent shall notify the court of the time when such person may be received. In the meantime, said person shall be cared for under such order as the court may enter.

[C24, 27, 31, 35, 39, § 3433; C46, 50, 54, 58, 62, § 222.23; C66, 71, 73, 75, 77, 79, 81, § 222.36]

2000 Acts, ch 1112, §51

222.37 Order to deliver committed person.

Upon the entry of an order of commitment, the clerk shall deliver to a suitable person designated by the court, an order of commitment and a duplicate thereof commanding such person to immediately deliver the committed person to the institution, resource center, or special unit, as designated by the court.

[C24, 27, 31, 35, 39, § 3434; C46, 50, 54, 58, 62, § 222.24; C66, 71, 73, 75, 77, 79, 81, § 222.37]

2000 Acts, ch 1112, §51

222.38 Delivery of person to institution, resource center, or special unit.

The court may, for the purpose of committing a person direct the clerk to authorize the employment of one or more assistants. If a person with mental retardation is taken to an institution, resource center, or special unit, at least one attendant shall be of the same sex.

[C24, 27, 31, 35, 39, § 3435; C46, 50, 54, 58, 62, § 222.25; C66, 71, 73, 75, 77, 79, 81, § 222.38]

85 Acts, ch 99, §3; 96 Acts, ch 1129, § 113; 2000 Acts, ch 1112, §51

222.39 Receipt acknowledged by superintendent.

The superintendent of the institution, resource center, or special unit on the order of commitment shall acknowledge receipt for said person. The duplicate order shall be left with the superintendent and shall be sufficient authority to restrain and care for said committed person.

[C24, 27, 31, 35, 39, § 3436; C46, 50, 54, 58, 62, § 222.26; C66, 71, 73, 75, 77, 79, 81, § 222.39]

2000 Acts, ch 1112, §51

222.40 Filing order with clerk.

The person executing said order shall make due return thereon of the person's doings and forthwith file the same with the clerk.

[C24, 27, 31, 35, 39, § 3437; C46, 50, 54, 58, 62, § 222.27; C66, 71, 73, 75, 77, 79, 81, § 222.40]

222.41 Exclusive method of discharge.

No person committed under this chapter shall be discharged from the institution, resource center, or special unit except as provided in this chapter. Nothing in this chapter shall abridge the right of petition for a writ of habeas corpus.

[C24, 27, 31, 35, 39, § 3438; C46, 50, 54, 58, 62, § 222.28; C66, 71, 73, 75, 77, 79, 81, § 222.41]

2000 Acts, ch 1112, §51

Footnotes

Constitutional provision, Iowa Constitution, Art. I, § 13

Habeas
corpus, chapter 663

222.42 Petition for discharge.

A petition for the discharge of a person who has been committed to an institution, a resource center, or a special unit under this chapter or to vary such order of commitment may at any time after six months from the date of such commitment be filed by the person committed or by any reputable person. If the commitment be to a private institution, the petition shall be filed with the court ordering such commitment. If the commitment be to a resource center or a special unit, the petition shall be filed in the proper court of the county where the institution is situated.

[C24, 27, 31, 35, 39, § 3439; C46, 50, 54, 58, 62, § 222.29; C66, 71, 73, 75, 77, 79, 81, § 222.42]

2000 Acts, ch 1112, §51

222.43 Grounds.

Discharges and modifications of orders may be made on any of the following grounds:

1. That the person adjudged to be mentally retarded is not mentally retarded.
2. That the person adjudged to be mentally retarded has improved as to be capable of self care.
3. That the relatives or friends of the person with mental retardation are able and willing to support and care for the person with mental retardation and request the person's discharge, and in the judgment of the superintendent of the institution or resource center having charge of the person, no harmful consequences are likely to follow such discharge.
4. That, for any other cause, said discharge should be made or such modification should be entered.

Petitions for discharge or modification of an order of commitment to a special unit may be made upon any of the foregoing grounds, when applicable.

[C24, 27, 31, 35, 39, § 3440; C46, 50, 54, 58, 62, § 222.30; C66, 71, 73, 75, 77, 79, 81, § 222.43]

96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §51

222.44 Notice to superintendent.

Notice of the hearing for discharge or modification of orders shall be served on the superintendent of the institution, resource center, or special unit, and on such parties as the court may find from the record are interested.

[C24, 27, 31, 35, 39, § 3441; C46, 50, 54, 58, 62, § 222.31; C66, 71, 73, 75, 77, 79, 81, § 222.44]

2000 Acts, ch 1112, §51

222.45 Power of court.

On the hearing, the court may discharge the person with mental retardation from all supervision, control, and care, or may transfer the person from a public institution to a private institution, or vice versa, or transfer the person from a special unit to a resource center, or vice versa, as the court deems appropriate under all the circumstances. If the person has been determined to lack the mental capacity to vote, the court shall include in its order a finding that this determination remains in force or is revoked.

[C24, 27, 31, 35, 39, § 3442; C46, 50, 54, 58, 62, § 222.32; C66, 71, 73, 75, 77, 79, 81, § 222.45]

84 Acts, ch 1299, § 5; 96 Acts, ch 1129, § 113; 98 Acts, ch 1185, §8; 2000 Acts, ch 1112, §51

222.46 No bar to future petitions.

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

[C24, 27, 31, 35, 39, § 3443; C46, 50, 54, 58, 62, § 222.33; C66, 71, 73, 75, 77, 79, 81, § 222.46]

222.47 Penalty for false petition of commitment.

Any person who shall maliciously seek to have any person adjudged mentally retarded, knowing that such person is not mentally retarded, shall be guilty of a fraudulent practice.

[C24, 27, 31, 35, 39, § 3448; C46, 50, 54, 58, 62, § 222.38; C66, 71, 73, 75, 77, 79, 81, § 222.47]

222.48 Fees for witnesses.

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

[C24, 27, 31, 35, 39, § 3449; C46, 50, 54, 58, 62, § 222.39; C66, 71, 73, 75, 77, 79, 81, § 222.48]

Footnotes

Fees, § 331.655,
622.69622.75

222.49 Costs paid.

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

court.

[C24, 27, 31, 35, 39, § 3450; C46, 50, 54, 58, 62, § 222.40; C66, 71, 73, 75, 77, 79, 81, § 222.49]

222.50 County of legal settlement to pay.

When the proceedings are instituted in a county in which the person who is alleged to have mental retardation was found but which is not the county of legal settlement of the person, and the costs are not taxed to the petitioner, the county which is the legal settlement of the person shall, on presentation of a properly itemized bill for such costs, repay the costs to the former county. When the person's legal settlement is outside the state or is unknown, the costs shall be paid out of money in the state treasury not otherwise appropriated, itemized on vouchers executed by the auditor of the county which paid the costs, and approved by the administrator.

[C24, 27, 31, 35, 39, § 3451; C46, 50, 54, 58, 62, § 222.41; C66, 71, 73, 75, 77, 79, 81, § 222.50]

96 Acts, ch 1129, § 49

222.51 Costs collected.

Costs incident to the hearings and commitment of a person with mental retardation to an institution, a resource center, or a special unit may be collected from the person with mental retardation and from all persons legally chargeable with the support of the person with mental retardation.

[C24, 27, 31, 35, 39, § 3452; C46, 50, 54, 58, 62, § 222.42; C66, 71, 73, 75, 77, 79, 81, § 222.51]

84 Acts, ch 1299, § 6; 96 Acts, ch 1129, § 113; 2000 Acts, ch 1112, §51

222.52 Proceedings against delinquent hearing on retardation.

When in proceedings against an alleged delinquent or dependent child, the court is satisfied from any evidence that such child is mentally retarded, the court may order a continuance of such proceeding, and may direct an officer of the court or some other proper person to file a petition against such child permitted under the provisions of this chapter. Pending hearing of the petition the court may by order provide proper custody for the child.

[C24, 27, 31, 35, 39, § 3453; C46, 50, 54, 58, 62, § 222.43; C66, 71, 73, 75, 77, 79, 81, § 222.52]

222.53 Conviction suspension.

If on the conviction in the district court of any person for any crime or for any violation of any municipal ordinance, or if on the determination in said courts that a child is dependent, neglected, or delinquent and it appears from any evidence presented to the court before sentence, that such person is mentally retarded within the meaning of this chapter, the court may suspend sentence or order, and may order any officer of the court or some other proper person to file a petition permitted under the provisions of this chapter against said person. Pending hearing of the petition, the court shall provide for the custody of said person as directed in section 222.52.

[C24, 27, 31, 35, 39, § 3454; C46, 50, 54, 58, 62, § 222.44; C66, 71, 73, 75, 77, 79, 81, § 222.53]

222.54 Procedure after hearing.

Should it be found under sections 222.52 and 222.53 that said person is not mentally retarded, the court shall

proceed with the original proceedings as though no petition had been filed.

[C24, 27, 31, 35, 39, § 3455; C46, 50, 54, 58, 62, § 222.45; C66, 71, 73, 75, 77, 79, 81, § 222.54]

222.55 Procedure regarding a person with mental illness.

If it appears at any time that a person has under the provisions of this chapter been committed to a private institution and should be evaluated and treated in a hospital for persons with mental illness, the person may be hospitalized under any of the provisions of sections 229.2 to 229.15.

[C24, 27, 31, 35, 39, § 3457; C46, 50, 54, 58, 62, § 222.47; C66, 71, 73, 75, 77, 79, 81, § 222.55]

84 Acts, ch 1299, § 7; 96 Acts, ch 1129, § 113

Footnotes

Hospitalization of persons with mental illness, chapter 229

222.56 Transfer to institution for persons with mental retardation.

When the mental condition of a person in a private institution for persons with mental illness is found to be such that the patient should be transferred to an institution for persons with mental retardation, the person may be proceeded against under this chapter.

[C24, 27, 31, 35, 39, § 3458; C46, 50, 54, 58, 62, § 222.48; C66, 71, 73, 75, 77, 79, 81, § 222.56]

84 Acts, ch 1299, § 8; 96 Acts, ch 1129, § 113

222.57 Court records.

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

[C24, 27, 31, 35, 39, § 3462; C46, 50, 54, 58, 62, § 222.52; C66, 71, 73, 75, 77, 79, 81, § 222.57]

222.58 Administrator to keep record.

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

[C24, 27, 31, 35, 39, § 3463; C46, 50, 54, 58, 62, § 222.53; C66, 71, 73, 75, 77, 79, 81, § 222.58]

222.59 Alternative to state resource center placement.

1. Upon receiving a request from an authorized requester, the superintendent of a state resource center shall coordinate with the central point of coordination process in assisting the requester in identifying available community-based services as an alternative to continued placement of a patient in the state resource center. For the purposes of this section, "*authorized requester*" means the parent, guardian, or custodian of a minor

patient, the guardian of an adult patient, or an adult patient who does not have a guardian. The assistance shall identify alternatives to continued placement which are appropriate to the patient's needs and shall include but are not limited to any of the following:

a. Providing information on currently available services that are an alternative to residence in the state resource center.

b. Referring the patient to an appropriate case management agency or other provider of service.

2. If a patient was admitted pursuant to section 222.13 or section 222.13A and the patient wishes to be placed outside of the state resource center, the discharge for the placement shall be made in accordance with the provisions of section 222.15.

3. If a patient was involuntarily committed, a petition for approval of a proposed placement outside the state resource center shall be filed, by the authorized requester or the superintendent of the state resource center where the patient is placed, with the court which made the commitment with either of the following recommendations for the court's consideration:

a. That the patient's commitment is no longer necessary and should be discontinued.

b. That the patient's commitment is still appropriate but the patient should be transferred to another public or private facility in accordance with the provisions of section 222.31, subsection 1.

[C97, § 2698; C24, 27, 31, 35, 39, § 3405, 3446; C46, § 221.4; C46, 50, 54, 58, 62, § 222.36, 223.19; C66, 71, 73, 75, 77, 79, 81, § 222.59]

83 Acts, ch 96, § 157, 159; 90 Acts, ch 1271, § 1502; 95 Acts, ch 82, §11; 96 Acts, ch 1183, § 5; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33

222.60 Costs paid by county or state diagnosis and evaluation.

All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of persons with mental retardation, as provided for in the county management plan provisions implemented pursuant to section 331.439, subsection 1, in a state resource center, or in a special unit, or any public or private facility within or without the state, approved by the director of the department of human services, shall be paid by either:

1. The county in which such person has legal settlement as defined in section 252.16.

2. The state when such person has no legal settlement or when such settlement is unknown.

Prior to a county of legal settlement approving the payment of expenses for a person under this section, the county may require that the person be diagnosed to determine if the person has mental retardation or that the person be evaluated to determine the appropriate level of services required to meet the person's needs relating to mental retardation. The diagnosis and the evaluation may be performed concurrently and shall be performed by an individual or individuals approved by the county who are qualified to perform the diagnosis or the evaluation. Following the initial approval for payment of expenses, the county of legal settlement may require that an evaluation be performed at reasonable time periods. The cost of a county- required diagnosis and an evaluation is at the county's expense. In the case of a person without legal settlement or whose legal settlement is unknown, the state may apply the diagnosis and evaluation provisions of this paragraph at the state's expense. A diagnosis or an evaluation under this section may be part of a county's central point of coordination process under section 331.440, provided that a diagnosis is performed only by an individual qualified as provided in this section.

A diagnosis of mental retardation under this section shall be made only when the onset of the person's condition was prior to the age of eighteen years and shall be based on an assessment of the person's intellectual functioning and level of adaptive skills. The diagnosis shall be made by an individual who is a psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person's adaptive skills.

A diagnosis of mental retardation shall be made in accordance with the criteria provided in the diagnostic and statistical manual of mental disorders, fourth edition, published by the American psychiatric association.

[C39, § 3477.3, 3477.4, 3477.7; C46, 50, 54, 58, 62, § 223.14, 223.15, 223.18; C66, 71, 73, 75, 77, 79, 81, § 222.60]

83 Acts, ch 96, § 157, 159; 95 Acts, ch 82, §12; 95 Acts, ch 190, §1; 95 Acts, ch 206, §13; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33

222.60A Cost of assessment.

Notwithstanding any provision of this chapter to the contrary, any amount attributable to any fee assessed pursuant to section 249A.21 that would otherwise be the liability of any county shall be paid by the state. The department may transfer funds from the appropriation for medical assistance to pay any amount attributable to any fee assessed pursuant to section 249A.21 that is a liability of the state.

2004 Acts, ch 1085, §3, 10, 11

222.61 Legal settlement determined.

When a county receives an application on behalf of any person for admission to a resource center or a special unit or when a court issues an order committing any person to a resource center or a special unit, the board of supervisors shall utilize the central point of coordination process to determine and certify that the legal settlement of the person is in one of the following:

1. In the county in which the application is received or court is located.
2. In some other county of the state.
3. In another state or in a foreign country.
4. Unknown.

[C66, 71, 73, 75, 77, 79, 81, § 222.61]

97 Acts, ch 169, §3; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33, 37

222.62 Settlement in another county.

When the board of supervisors determines through the central point of coordination process that the legal settlement of the person is other than in the county in which the application is received, the determination shall be certified to the superintendent of the resource center or the special unit where the person is a patient. The certification shall be accompanied by a copy of the evidence supporting the determination. The superintendent shall charge the expenses already incurred and unadjusted, and all future expenses of the patient, to the county certified to be the county of legal settlement.

[C66, 71, 73, 75, 77, 79, 81, § 222.62]

97 Acts, ch 169, §4; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33, 38

222.63 Finding of settlement objection.

A board of supervisors' certification utilizing the central point of coordination process that a person's legal settlement is in another county shall be sent by the board of supervisors to the auditor of the county of legal settlement. The certification shall be accompanied by a copy of the evidence supporting the determination. The auditor of the county of legal settlement shall submit the certification to the board of supervisors of the auditor's county and it shall be conclusively presumed that the patient has a legal settlement in that county unless that county disputes the determination of legal settlement as provided in section 225C.8.

[C66, 71, 73, 75, 77, 79, 81, § 222.63]

2004 Acts, ch 1090, §33, 39

222.64 Foreign state or country or unknown legal settlement.

If the legal settlement of the person is determined by the board of supervisors through the central point of coordination process to be in a foreign state or country or is determined to be unknown, the board of supervisors shall certify the determination to the administrator. The certification shall be accompanied by a copy of the evidence supporting the determination. The care of the person shall be as arranged by the board of supervisors or by an order as the court may enter. Application for admission or order of commitment may be made pending investigation by the administrator.

[C66, 71, 73, 75, 77, 79, 81, § 222.64]

97 Acts, ch 169, §5; 2004 Acts, ch 1090, §33, 40

222.65 Investigation.

If an application is made for placement of a person in a state resource center or special unit, the administrator shall immediately investigate the legal settlement of the person and proceed as follows:

1. If the administrator concurs with a certified determination as to legal settlement of the person so that the person is deemed a state case, the administrator shall cause the person either to be transferred to a resource center or a special unit or to be transferred to the place of foreign settlement.
2. If the administrator disputes a certified determination of legal settlement, the administrator shall order the person transferred to a state resource center or a special unit until the dispute is resolved.
3. If the administrator disputes a certified determination of legal settlement, the administrator shall utilize the procedure provided in section 225C.8 to resolve the dispute. A determination of the person's legal settlement status made pursuant to section 225C.8 is conclusive.

[C66, 71, 73, 75, 77, 79, 81, § 222.65]

2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §41

222.66 Transfers expenses.

The transfer to a resource center or a special unit or to the place of legal settlement of a person with mental retardation who has no legal settlement in this state or whose legal settlement is unknown, shall be made in

accordance with such directions as shall be prescribed by the administrator and when practicable by employees of the state resource center or the special unit. The actual and necessary expenses of such transfers shall be paid on itemized vouchers sworn to by the claimants and approved by the administrator from any funds in the state treasury not otherwise appropriated.

[C66, 71, 73, 75, 77, 79, 81, § 222.66]

96 Acts, ch 1129, § 113; 2000 Acts, ch 1112, §51

222.67 Charge on finding of settlement.

If a person has been received into a resource center or a special unit as a patient whose legal settlement is supposedly outside the state or is unknown and the administrator determines that the legal settlement of the patient was at the time of admission or commitment in a county of this state, the administrator shall certify the determination and charge all legal costs and expenses pertaining to the admission or commitment and support of the patient to the county of legal settlement. The certification shall be sent to the county of legal settlement. The certification shall be accompanied by a copy of the evidence supporting the determination. If the person's legal settlement status has been determined in accordance with section 225C.8, the legal costs and expenses shall be charged to the county or as a state case in accordance with that determination. The costs and expenses shall be collected as provided by law in other cases.

[C66, 71, 73, 75, 77, 79, 81, § 222.67]

2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §42

222.68 Costs paid in first instance.

All necessary and legal expenses for the cost of admission or commitment of a person to a resource center or a special unit when the person's legal settlement is found to be in another county of this state shall in the first instance be paid by the county from which the person was admitted or committed. The county of legal settlement shall reimburse the county which pays for all such expenses. Where any county fails to make such reimbursement within forty- five days following submission of a properly itemized bill to the county of legal settlement, a penalty of not greater than one percent per month on and after forty-five days from submission of the bill may be added to the amount due.

[C24, 27, 31, 35, 39, § 3451; C46, 50, 54, 58, 62, § 222.41; C66, 71, 73, 75, 77, 79, 81, § 222.68]

98 Acts, ch 1218, §68; 2000 Acts, ch 1112, §51

222.69 Payment by state.

All necessary and legal expenses for the cost of admission or commitment of a person to a resource center or a special unit when the person's legal settlement is outside this state or is unknown shall be paid out of any money in the state treasury not otherwise appropriated. Such payments shall be made on itemized vouchers executed by the auditor of the county from which the expenses have been paid and approved by the administrator.

[C66, 71, 73, 75, 77, 79, 81, § 222.69]

2000 Acts, ch 1112, §51

222.70 Legal settlement disputes.

If a dispute arises between counties or between the department and a county as to the legal settlement of a person admitted or committed to a resource center, a special unit, or a community-based service, the dispute shall be resolved as provided in section 225C.8.

[C66, 71, 73, 75, 77, 79, 81, § 222.70]

94 Acts, ch 1170, §1; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §43

222.71 and 222.72 Repealed by 2004 Acts, ch 1090, § 55.

222.73 Billing of patient charges computation of actual costs cost settlement.

1. The superintendent of each resource center and special unit shall compute by February 1 the average daily patient charge and outpatient treatment charges for which each county will be billed for services provided to patients chargeable to the county during the fiscal year beginning the following July 1. The department shall certify the amount of the charges and notify the counties of the billing charges.

a. The superintendent shall compute the average daily patient charge for a resource center or special unit for services provided in the following fiscal year, in accordance with generally accepted accounting procedures, by totaling the expenditures of the resource center or special unit for the immediately preceding calendar year, by adjusting the expenditures by a percentage not to exceed the percentage increase in the consumer price index for all urban consumers for the immediately preceding calendar year, and by dividing the adjusted expenditures by the total inpatient days of service provided during the immediately preceding calendar year.

b. The department shall compute the outpatient treatment charges, in accordance with generally accepted accounting procedures, on the basis of the actual cost of the outpatient treatment provided during the immediately preceding calendar year.

2. The superintendent shall certify to the department the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and outpatient treatment charges computed pursuant to subsection 1, and the number of inpatient days and outpatient treatment service units chargeable to the county. The billings to a county of legal settlement are subject to adjustment for all of the following circumstances:

a. The county billing for a patient shall be reduced by the amount received for the patient's care from a source other than state appropriated funds.

b. If more than twenty percent of the cost of a patient's care is initially paid from a source other than state appropriated funds, the amount paid shall be subtracted from the average per-patient-per-day cost of that patient's care and the patient's county shall be billed for the full balance of the cost so computed.

c. The county of a patient who is eligible for reimbursement under the medical assistance program shall be responsible for the costs which are not reimbursed by the medical assistance program, regardless of the level of care provided to the patient.

d. A county shall be responsible for eighty percent of the cost of care of a patient who is not eligible for reimbursement under the medical assistance program.

e. The billings for counties shall be credited with one hundred percent of the client participation for patients eligible for medical assistance in the calculation of the per diem rate for patients.

f. A county shall not be billed for the cost of a patient unless the patient's admission is authorized through the applicable central point of coordination process. The state resource center and the county shall work together

to locate appropriate alternative placements and services, and to educate patients and the family members of patients regarding such alternatives.

The per diem costs billed to each county shall not exceed the per diem costs billed to the county in the fiscal year beginning July 1, 1996. However, the per diem costs billed to a county may be adjusted in a fiscal year to reflect increased costs to the extent of the percentage increase in the total of county fixed budgets pursuant to the allowed growth factor adjustment authorized by the general assembly for that fiscal year in accordance with section 331.439.

3. The superintendent shall compute in January the actual per-patient-per-day cost for each resource center or special unit for the immediately preceding calendar year, in accordance with generally accepted accounting procedures, by totaling the actual expenditures of the resource center or special unit for the calendar year and by dividing the total actual expenditures by the total inpatient days of service provided during the calendar year.

4. The department shall certify to the counties by February 1 the actual per-patient-per-day costs, as computed pursuant to subsection 3, and the actual costs owed by each county for the immediately preceding calendar year for patients chargeable to the county. If the actual costs owed by the county are greater than the charges billed to the county pursuant to subsection 2, the department shall bill the county for the difference with the billing for the quarter ending June 30. If the actual costs owed by the county are less than the charges billed to the county pursuant to subsection 2, the department shall credit the county for the difference starting with the billing for the quarter ending June 30.

5. A superintendent of a resource center or special unit may request that the director of human services enter into a contract with a person for the resource center or special unit to provide consultation or treatment services or for fulfilling other purposes which are consistent with the purposes stated in section 222.1. The contract provisions shall include charges which reflect the actual cost of providing the services. Any income from a contract authorized under this subsection may be retained by the resource center or special unit to defray the costs of providing the services or fulfilling the other purposes. Except for a contract voluntarily entered into by a county under this subsection, the costs or income associated with a contract authorized under this subsection shall not be considered in computing charges and per diem costs in accordance with the provisions of subsections 1 through 4.

[SS15, § 2727-a96; C24, 27, 31, 35, 39, § **3469**; C46, 50, 54, 58, 62, § 223.5; C66, 71, 73, 75, 77, 79, 81, § 222.73]

86 Acts, ch 1169, § 1; 88 Acts, ch 1249, § 6; 88 Acts, ch 1276, § 38; 95 Acts, ch 82, §4; 96 Acts, ch 1183, § 68; 98 Acts, ch 1155, §9; 2000 Acts, ch 1112, §51; 2001 Acts, ch 155, §1517; 2004 Acts, ch 1090, §33

222.74 Duplicate to county.

When certifying to the department amounts to be charged against each county as provided in section 222.73, the superintendent shall send to the county auditor of each county against which the superintendent has so certified any amount, a duplicate of the certification statement. The county auditor upon receipt of the duplicate certification statement shall enter it to the credit of the state in the ledger of state accounts, and shall immediately issue a notice to the county treasurer authorizing the treasurer to transfer the amount from the county fund to the general state revenue. The county treasurer shall file the notice as authority for making the transfer and shall include the amount transferred in the next remittance of state taxes to the treasurer of state, designating the fund to which the amount belongs.

[C66, 71, 73, 75, 77, 79, 81, § 222.74]

83 Acts, ch 123, § 82, 209; 2001 Acts, ch 155, §18

222.75 Delinquent payments penalty.

If a county fails to pay a billed charge within forty-five days from the date the county auditor received the certification statement from the superintendent pursuant to section 222.74, the department may charge the delinquent county a penalty of not greater than one percent per month on and after forty-five days from the date the county auditor received the certification statement until paid.

[C66, 71, 73, 75, 77, 79, 81, § 222.75]

98 Acts, ch 1218, §69; 2001 Acts, ch 155, §19

222.76 Repealed by 81 Acts, ch 117, § 1097.

222.77 Patients on leave.

The cost of support of patients placed on convalescent leave or removed as a habilitation measure from a resource center, or a special unit, except when living in the home of a person legally bound for the support of the patient, shall be paid by the county of legal settlement. If the patient has no county of legal settlement, the cost shall be paid from the support fund of the resource center or special unit and charged on abstract in the same manner as other state inpatients until the patient becomes self-supporting or qualifies for support under other statutes.

[C66, 71, 73, 75, 77, 79, 81, S81, § 222.77; 81 Acts, ch 117, § 1027]

83 Acts, ch 123, § 83, 209; 2000 Acts, ch 1112, §51

222.78 Parents and others liable for support.

The father and mother of any patient admitted or committed to a resource center or to a special unit, as either an inpatient or an outpatient, and any person, firm, or corporation bound by contract made for support of the patient are liable for the support of the patient. The patient and those legally bound for the support of the patient shall be liable to the county for all sums advanced by the county to the state under the provisions of sections 222.60 and 222.77. The liability of any person, other than the patient, who is legally bound for the support of a patient who is under eighteen years of age in a resource center or a special unit shall not exceed the average minimum cost of the care of a normally intelligent minor without a disability of the same age and sex as the minor patient. The administrator shall establish the scale for this purpose but the scale shall not exceed the standards for personal allowances established by the state division under the family investment program. The father or mother shall incur liability only during any period when the father or mother either individually or jointly receive a net income from whatever source, commensurate with that upon which they would be liable to make an income tax payment to this state. The father or mother of a patient shall not be liable for the support of the patient upon the patient attaining eighteen years of age. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost as established by the administrator for caring for the patient with mental retardation.

[C39, § 3477.5; C46, 50, 54, 58, 62, § 223.16, 223.20; C66, 71, 73, 75, 77, 79, 81, § 222.78]

93 Acts, ch 97, § 27; 98 Acts, ch 1218, §70; 2000 Acts, ch 1112, §51

222.79 Certification statement presumed correct.

In actions to enforce the liability imposed by section 222.78, the certification statement sent from the superintendent to the county auditor pursuant to section 222.74 stating the sums charged in such cases shall be presumptively correct.

[C66, 71, 73, 75, 77, 79, 81, § 222.79]

2001 Acts, ch 155, §20

222.80 Liability to county.

A person admitted or committed to a county institution or home or admitted or committed at county expense to a private hospital, sanitarium, or other facility for treatment, training, instruction, care, habilitation, and support as a patient with mental retardation shall be liable to the county for the reasonable cost of the support as provided in section 222.78.

[C66, 71, 73, 75, 77, 79, 81, § 222.80]

96 Acts, ch 1129, §50

222.81 Claim against estate.

The total amount of liability provided in section 222.78 shall be allowed as a claim of the sixth class against the estate of the person or against the estate of the father or mother of such person.

[C66, 71, 73, 75, 77, 79, 81, § 222.81]

222.82 Collection of liabilities and claims.

The board of supervisors of each county may direct the county attorney to proceed with the collection of said liabilities and claims as a part of the duties of the county attorney's office when the board of supervisors deems such action advisable. The board of supervisors may and is hereby empowered to compromise any and all liabilities to the county arising under this chapter when such compromise is deemed to be in the best interests of the county. Any collections and liens shall be limited in conformance to section 614.1, subsection 4.

[C39, § 3477.6; C46, 50, 54, 58, 62, § 223.17; C66, 71, 73, 75, 77, 79, 81, § 222.82]

222.83 Nonresident patients.

The estates of all nonresident patients who are provided treatment, training, instruction, care, habilitation, and support in or by a resource center or a special unit, and all persons legally bound for the support of such persons, shall be liable to the state for the reasonable value of such services. The certificate of the superintendent of the resource center or special unit in which any nonresident is or has been a patient, showing the amounts drawn from the state treasury or due therefrom as provided by law on account of such nonresident patient, shall be presumptive evidence of the reasonable value of such services furnished such patient by the resource center or special unit.

[C66, 71, 73, 75, 77, 79, 81, § 222.83]

2000 Acts, ch 1112, §51

222.84 Patients' personal deposit fund.

There is hereby established at each resource center and special unit a fund which shall be known as the "patients' personal deposit fund"; provided that in the case of a special unit, the director may direct that the patients' personal deposit fund be maintained and administered as a part of the fund established, pursuant to

sections 226.43 to 226.46, by the mental health institute where the special unit is located.

[C66, 71, 73, 75, 77, 79, 81, § 222.84]

2000 Acts, ch 1112, §51

222.85 Deposit of moneys exception to guardians.

Any funds coming into the possession of the superintendent or any employee of a resource center or special unit belonging to any patient in that institution shall be deposited in the name of the patient in the patients' personal deposit fund, except that if a guardian of the property has been appointed for the person, the guardian shall have the right to demand and receive such funds. Funds belonging to a patient deposited in the patients' personal deposit fund may be used for the purchase of personal incidentals, desires, and comforts for the patient.

Money paid to a resource center from any source other than state appropriated funds and intended to pay all or a portion of the cost of care of a patient, which cost would otherwise be paid from state or county funds or from the patient's own funds, shall not be deemed money belonging to the patient for the purposes of this section.

[C66, 71, 73, 75, 77, 79, 81, § 222.85]

2000 Acts, ch 1112, §51

222.86 Payment for care from fund.

If a patient is not receiving medical assistance under chapter 249A and the amount in the account of any patient in the patients' personal deposit fund exceeds two hundred dollars, the business manager of the resource center or special unit may apply any amount of the excess to reimburse the county of legal settlement or the state in a case where no legal settlement exists for liability incurred by the county or the state for the payment of care, support, and maintenance of the patient, when billed by the county of legal settlement or by the administrator for a patient having no legal settlement.

[C66, 71, 73, 75, 77, 79, 81, S81, § 222.86; 81 Acts, ch 11, § 15]

2000 Acts, ch 1112, §51

222.87 Deposit in bank.

The business manager shall deposit the patients' personal deposit fund in a commercial account of a bank of reputable standing. When deposits in the commercial account exceed average monthly withdrawals, the business manager may deposit the excess at interest. The savings account shall be in the name of the patients' personal deposit fund and interest paid thereon may be used for recreational purposes for the patients at the resource center or special unit.

[C66, 71, 73, 75, 77, 79, 81, § 222.87]

2000 Acts, ch 1112, §51

222.88 Special mental retardation unit.

The director of human services may organize and establish a special mental retardation unit at an existing institution which may provide:

1. Psychiatric and related services to children with mental retardation and adults who are also emotionally disturbed or otherwise mentally ill.
2. Specific programs to meet the needs of such other special categories of persons with mental retardation as may be designated by the director.
3. Appropriate diagnostic evaluation services.

[C71, 73, 75, 77, 79, 81, § 222.88]

83 Acts, ch 96, § 157, 159; 96 Acts, ch 1129, § 51, 113

222.89 Location staff and personnel.

The director may:

1. Designate a portion of the physical facilities of one of the mental health institutes to be occupied by the offices and facilities of the special unit.
2. Determine the extent to which the special unit may effectively utilize services of the mental health institute staff, and what staff personnel should be employed for and assigned specifically to the special unit.

[C71, 73, 75, 77, 79, 81, § 222.89]

222.90 Superintendent.

The director shall appoint a qualified superintendent of the special unit. The superintendent shall employ all staff personnel to be assigned specifically to the special unit, and shall have the same duties with respect to the special unit as are imposed upon superintendents of resource centers by section 222.4.

[C71, 73, 75, 77, 79, 81, § 222.90]

2000 Acts, ch 1112, §51

222.91 Direct referral to special unit.

In addition to any other manner of referral, admission, or commitment to the special unit provided for by this chapter, persons may be referred directly to the special unit by courts, law enforcement agencies, or state penal or correctional institutions for services under subsection 2 of section 222.88; but persons so referred shall not be admitted or committed unless a preadmission diagnostic evaluation indicates that the person would benefit from such services, and the admission or commitment of the person to the special unit would not cause the special unit's patient load to exceed its capacity.

[C71, 73, 75, 77, 79, 81, § 222.91]

222.92 Net general fund appropriation state resource centers.

1. The department shall operate the state resource centers on the basis of net appropriations from the general fund of the state. The appropriation amounts shall be the net amounts of state moneys projected to be needed for the state resource centers for the fiscal year of the appropriations. The purpose of utilizing net appropriations is to encourage the state resource centers to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts between the state resource centers and counties and other providers of funding for the services available from the state resource centers. The state resource

centers shall not be operated under the net appropriations in a manner that results in a cost increase to the state or in cost shifting between the state, the medical assistance program, counties, or other sources of funding for the state resource centers.

2. The net appropriation made for a state resource center may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for purposes of cash flow management, a state resource center may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year.

3. Subject to the approval of the department, except for revenues segregated as provided in section 249A.11, revenues received that are attributed to a state resource center for a fiscal year shall be credited to the state resource center's account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:

a. Moneys received by the state from billings to counties under section 222.73.

b. The federal share of medical assistance program revenue received under chapter 249A.

c. Federal Medicare program payments.

d. Moneys received from client financial participation.

e. Other revenues generated from current, new, or expanded services that the state resource center is authorized to provide.

4. For purposes of allocating moneys to the state resource centers from the salary adjustment fund created in section 8.43, the state resource centers shall be considered to be funded entirely with state moneys.

5. Notwithstanding section 8.33, up to five hundred thousand dollars of a state resource center's revenue that remains unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for purposes of the state resource center until the close of the succeeding fiscal year.

2005 Acts, ch 175, §94

222.93 Medical assistance payments. Repealed by 85 Acts, ch 146, §4. See §249A.11.