

FILED APR 30 1977

SENATE FILE 499

BY COMMITTEE ON HUMAN RESOURCES

Substituted for H.F. 815 5/20

Passed Senate, Date 5-8-75 (1209)

Passed House, Date 5-20-75 (1833)

Vote: Ayes 45 Nays 0

Vote: Ayes 92 Nays 1

Approved 6-16-75

*Passed Senate as amended by House
5-23-75 (1559)
45-0*

A BILL FOR

1 An Act relating to hospitalization of the mentally ill.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. DEFINITIONS. As used in this
2 Act, unless the context clearly requires otherwise:

3 1. "Mental illness" means every type of mental disease
4 or mental disorder, except that it does not refer to mental
5 retardation as defined in section two hundred twenty-two point
6 two (222.2), subsection five (5) of the Code.

7 2. "Seriously mentally impaired" or "serious mental impair-
8 ment" describes the condition of a person who is afflicted
9 with mental illness and because of that illness lacks
10 sufficient judgment to make responsible decisions with respect
11 to his or her hospitalization or treatment, and who:

12 a. Is likely to physically injure himself or herself or
13 others if allowed to remain at liberty without treatment;
14 or

15 b. Is likely to inflict serious emotional injury on members
16 of his or her family or others who lack reasonable opportunity
17 to avoid contact with the afflicted person if the afflicted
18 person is allowed to remain at liberty without treatment.

19 3. "Serious emotional injury" is an injury which does
20 not necessarily exhibit any physical characteristics, but
21 which can be recognized and diagnosed by a licensed physician
22 or other qualified mental health professional and which can
23 be causally connected with the act or omission of a person
24 who is, or is alleged to be, mentally ill.

25 4. "Respondent" means any person against whom an
26 application has been filed under section six (6) of this Act,
27 but who has not been finally ordered committed for full-time
28 custody, care and treatment in a hospital.

29 5. "Patient" means a person who has been hospitalized
30 or ordered hospitalized to receive treatment pursuant to
31 section fourteen (14) of this Act.

32 6. "Licensed physician" means an individual licensed under
33 the provisions of chapter one hundred forty-eight (148) of
34 the Code to practice medicine.

35 7. "Qualified mental health professional" means an

1 individual experienced in the study and treatment of mental
2 disorders in the capacity of:

3 a. A psychologist certified under chapter one hundred
4 fifty-four B (154B) of the Code; or

5 b. A registered nurse licensed under chapter one hundred
6 fifty-two (152) of the Code; or

7 c. A social worker who holds a masters degree in social
8 work awarded by an accredited college or university.

9 8. "Public hospital" means:

10 a. A state mental health institute established by chapter
11 two hundred twenty-six (226) of the Code; or

12 b. The state psychopathic hospital established by chapter
13 two hundred twenty-five (225) of the Code; or

14 c. Any other publicly supported hospital or institution,
15 or part thereof, which is equipped and staffed to provide
16 inpatient care to the mentally ill, except that this definition
17 shall not be applicable to the Iowa security medical facility
18 established by chapter two hundred twenty-three (223) of the
19 Code.

20 9. "Private hospital" means any hospital or institution
21 not directly supported by public funds, or a part thereof,
22 which is equipped and staffed to provide inpatient care to
23 the mentally ill.

24 10. "Hospital" means either a public hospital or a private
25 hospital.

26 11. "Chief medical officer" means the medical director
27 in charge of any public hospital, or any private hospital,
28 or that individual's physician-designee. Nothing in this
29 Act shall negate the authority otherwise reposed by law in
30 the respective superintendents of each of the state hospitals
31 for the mentally ill, established by chapter two hundred
32 twenty-six (226) of the Code, to make decisions regarding
33 the appropriateness of admissions or discharges of patients
34 of that hospital, however it is the intent of this Act that
35 if the superintendent is not a licensed physician he shall

1 be guided in these decisions by the chief medical officer
2 of that hospital.

3 12. "Clerk" means the clerk of the district court.

4 Sec. 2. NEW SECTION. APPLICATION FOR VOLUNTARY ADMISSION-
5 -AUTHORITY TO RECEIVE VOLUNTARY PATIENTS.

6 1. An application for admission to a public or private
7 hospital for observation, diagnosis, care and treatment as
8 a voluntary patient may be made by any person who is mentally
9 ill or has symptoms of mental illness. In the case of a
10 minor, the parent or guardian may make application for
11 admission of the minor as a voluntary patient, however if
12 the chief medical officer of the hospital to which application
13 is made determines that the admission is appropriate but the
14 minor objects to the admission, the parent or guardian must
15 petition the juvenile court for approval of the admission
16 before the minor is actually admitted. The juvenile court
17 shall determine whether the admission is in the best interest
18 of the minor and is consistent with his or her rights.

19 2. Upon receiving an application for admission as a
20 voluntary patient, made pursuant to subsection one (1) of
21 this section:

22 a. The chief medical officer of a public hospital shall
23 receive and may admit the person whose admission is sought,
24 subject in cases other than medical emergencies to availability
25 of suitable accommodations and to the provisions of sections
26 two hundred twenty-nine point forty-one (229.41) and two
27 hundred twenty-nine point forty-two (229.42) of the Code.

28 b. The chief medical officer of a private hospital may
29 receive and may admit the person whose admission is sought.

30 Sec. 3. NEW SECTION. DISCHARGE OF VOLUNTARY PATIENTS.
31 Any voluntary patient who has recovered, or whose
32 hospitalization the chief medical officer of the hospital
33 determines is no longer advisable, shall be discharged. Any
34 voluntary patient may be discharged if to do so would in the
35 judgment of the chief medical officer contribute to the most

1 effective use of the hospital in the care and treatment of
2 that patient and of other mentally ill persons.

3 Sec. 4. NEW SECTION. RIGHT TO RELEASE ON APPLICATION.

4 A voluntary patient who requests his or her release or whose
5 release is requested, in writing, by his or her legal guardian,
6 parent, spouse or adult next-of-kin shall be released from
7 the hospital forthwith, except that:

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

12 2. If the patient is a minor who was admitted on the
13 application of his or her parent or guardian pursuant to
14 section two (2), subsection one (1) of this Act, his or her
15 release prior to becoming eighteen years of age may be
16 conditioned upon the consent of the parent or guardian, or
17 upon the approval of the juvenile court if the admission was
18 approved by the juvenile court; and

19 3. If the chief medical officer of the hospital, not later
20 than the end of the next secular day on which the office of
21 the clerk of the district court for the county in which the
22 hospital is located is open and which follows the submission
23 of the written request for release of the patient, files with
24 that clerk a certification that in the chief medical officer's
25 opinion the patient is seriously mentally impaired, the release
26 may be postponed for the period of time the court determines
27 is necessary to permit commencement of judicial procedure
28 for involuntary hospitalization. That period of time may
29 not exceed five days, exclusive of days on which the clerk's
30 office is not open. Until disposition of the application
31 for involuntary hospitalization of the patient, if one is
32 timely filed, the chief medical officer may detain the patient
33 in the hospital and may provide treatment which is necessary
34 to preserve his or her life, or to appropriately control
35 behavior by the patient which is likely to result in physical

1 injury to himself or herself or to others if allowed to
2 continue, but may not otherwise provide treatment to the
3 patient without the patient's consent.

4 Sec. 5. NEW SECTION. DEPARTURE WITHOUT NOTICE. If a
5 voluntary patient departs from the hospital without notice,
6 and in the opinion of the chief medical officer the patient
7 is seriously mentally impaired, the chief medical officer
8 may file an application for involuntary hospitalization of
9 the departed voluntary patient, and request that an order
10 for immediate custody be entered by the court pursuant to
11 section eleven (11) of this Act.

12 Sec. 6. NEW SECTION. APPLICATION FOR ORDER OF INVOLUNTARY
13 HOSPITALIZATION. Proceedings for the involuntary
14 hospitalization of an individual may be commenced by any
15 interested person by filing a verified application with the
16 clerk of the district court of the county where the respondent
17 is presently located, or which is the respondent's place of
18 residence. The clerk, or his or her designee, shall assist
19 the applicant in completing the application. The application
20 shall:

- 21 1. State the applicant's belief that the respondent is
22 seriously mentally impaired.
- 23 2. State any other pertinent facts.
- 24 3. Be accompanied by:
 - 25 a. A written statement of a licensed physician in support
26 of the application; or
 - 27 b. One or more supporting affidavits otherwise
28 corroborating the application; or
 - 29 c. Corroborative information obtained and reduced to
30 writing by the clerk or his or her designee, but only when
31 circumstances make it infeasible to comply with, or when the
32 clerk considers it appropriate to supplement the information
33 supplied pursuant to, either paragraph a or paragraph b of
34 this subsection.

35 Sec. 7. NEW SECTION. SERVICE OF NOTICE UPON RESPONDENT.

1 Upon the filing of an application for involuntary
2 hospitalization, the clerk shall docket the case and
3 immediately notify a district court judge who shall review
4 the application and accompanying documentation. If the
5 application is adequate as to form, the judge may set a time
6 and place for a hearing on the application, if feasible, and
7 shall direct the clerk to send copies of the application and
8 supporting documentation, together with a notice informing
9 the respondent of the procedures required by this Act, to
10 the sheriff or his or her deputy for immediate service upon
11 the respondent. If the respondent is taken into custody under
12 section eleven (11) of this Act, service of the application,
13 documentation and notice upon the respondent shall be made
14 at the time he or she is taken into custody.

15 Sec. 8. NEW SECTION. PROCEDURE AFTER APPLICATION IS
16 FILED. As soon as practicable after the filing of an
17 application for involuntary hospitalization, the court shall:

18 1. Determine whether the respondent has an attorney who
19 is able and willing to represent him or her in the
20 hospitalization proceeding, and if not, whether the respondent
21 is financially able to employ an attorney and capable of
22 meaningfully assisting in selecting one. In accordance with
23 those determinations, the court shall if necessary allow the
24 respondent to select, or shall assign to him or her, an
25 attorney. If the respondent is financially unable to pay
26 an attorney, the attorney shall be compensated in substantially
27 the manner provided by sections seven hundred seventy-five
28 point five (775.5) and seven hundred seventy-five point six
29 (775.6) of the Code, except that if the county has a public
30 defender the court may designate the public defender or an
31 attorney on his or her staff to act as the respondent's
32 attorney.

33 2. Cause copies of the application and supporting
34 documentation to be sent to the county attorney or his or
35 her attorney-designate for review.

1 3. Issue a written order which shall:

2 a. If not previously done, set a time and place for a
3 hospitalization hearing, which shall be at the earliest
4 practicable time; and

5 b. Order an examination of the respondent, prior to the
6 hearing, by one or more licensed physicians who shall submit
7 a written report on the examination to the court as required
8 by section ten (10) of this Act.

9 Sec. 9. NEW SECTION. RESPONDENT'S ATTORNEY INFORMED.

10 The court shall direct the clerk to furnish at once to the
11 respondent's attorney copies of the application for involuntary
12 hospitalization of the respondent and the supporting
13 documentation, and of the court's order issued pursuant to
14 section eight (8), subsection three (3) of this Act. If the
15 respondent is taken into custody under section eleven (11)
16 of this Act, the attorney shall also be advised of that fact.
17 The respondent's attorney shall represent the respondent
18 at all stages of the proceedings, and shall attend the
19 hospitalization hearing.

20 Sec. 10. NEW SECTION. PHYSICIANS' EXAMINATION--REPORT.

21 1. An examination of the respondent shall be conducted
22 by one or more licensed physicians, as required by the court's
23 order, within a reasonable time. If the respondent is taken
24 into custody under section eleven (11) of this Act, the
25 examination shall be conducted within twenty-four hours.

26 If the respondent so desires, he or she shall be entitled
27 to a separate examination by a licensed physician of his or
28 her own choice. The reasonable cost of such separate examin-
29 ation shall, if the respondent lacks sufficient funds to pay
30 the cost, be paid from county funds upon order of the court.

31 Any licensed physician conducting an examination pursuant
32 to this section may consult with or request the participation
33 in the examination of any qualified mental health professional,
34 and may include with or attach to the written report of the
35 examination any findings or observations by any qualified

1 mental health professional who has been so consulted or has
2 so participated in the examination.

3 2. A written report of the examination by the court-
4 designated physician or physicians shall be filed with the
5 clerk prior to the hearing date. A written report of any
6 examination by a physician chosen by the respondent may be
7 similarly filed. The clerk shall immediately:

8 a. Cause the report or reports to be shown to the judge
9 who issued the order; and

10 b. Cause the respondent's attorney to receive a copy of
11 the report of the court-designated physician or physicians.

12 3. If the report of the court-designated physician or
13 physicians is to the effect that the individual is not
14 seriously mentally impaired, the court may without taking
15 further action terminate the proceeding and dismiss the
16 application on its own motion and without notice.

17 4. If the report of the court-designated physician or
18 physicians is to the effect that the respondent is seriously
19 mentally impaired, the court shall schedule a hearing on the
20 application as soon as possible. The hearing shall be held
21 not more than forty-eight hours after the report is filed,
22 excluding Saturdays, Sundays and holidays, unless an extension
23 for good cause is requested by the respondent, or as soon
24 thereafter as possible if the court considers that sufficient
25 grounds exists for delaying the hearing.

26 Sec. 11. NEW SECTION. JUDGE MAY ORDER IMMEDIATE CUSTODY.
27 If the applicant requests that the respondent be taken into
28 immediate custody and the judge, upon reviewing the application
29 and accompanying documentation, finds probable cause to believe
30 that the respondent is seriously mentally impaired and is
31 likely to injure himself or herself or other persons if allowed
32 to remain at liberty, the judge may enter a written order
33 directing that the respondent be taken into immediate custody
34 by the sheriff or his or her deputy and be detained until
35 the hospitalization hearing, which shall be held no more than

1 five days after the date of the order. The judge may order
2 the respondent detained for that period of time, and no longer,
3 in accordance with subsection one (1) of this section if
4 possible, and if not then in accordance with subsection two
5 (2) of this section or, only if neither of these alternatives
6 are available, in accordance with subsection three (3) of
7 this section. Detention may be:

8 1. In the custody of a relative, friend or other suitable
9 person who is willing to accept responsibility for supervision
10 of the respondent, and the respondent may be placed under
11 such reasonable restrictions as the judge may order including,
12 but not limited to, restrictions on or a prohibition of any
13 expenditure, encumbrance or disposition of the respondent's
14 funds or property; or

15 2. In a suitable hospital the chief medical officer of
16 which shall be informed of the reasons why immediate custody
17 has been ordered and may provide treatment which is necessary
18 to preserve the respondent's life, or to appropriately control
19 behavior by the respondent which is likely to result in
20 physical injury to himself or herself or to others if allowed
21 to continue, but may not otherwise provide treatment to the
22 respondent without the respondent's consent; or

23 3. In a public or private facility in the community which
24 is suitably equipped and staffed for the purpose, provided
25 that detention in a jail or other facility intended for
26 confinement of those accused or convicted of crime may not
27 be ordered except in cases of actual emergency when no other
28 secure facility is accessible and then only for a period of
29 not more than twenty-four hours and under close supervision.

30 Sec. 12. NEW SECTION. HEARING PROCEDURE. At the
31 hospitalization hearing, evidence in support of the contentions
32 made in the application shall be presented by the county
33 attorney. During the hearing the applicant and the respondent
34 shall be afforded an opportunity to testify and to present
35 and cross-examine witnesses, and the court may receive the

1 testimony of any other interested person. The respondent
2 has the right to be present at the hearing. If the respondent
3 exercises that right and has been medicated within twelve
4 hours, or such longer period of time as the court may
5 designate, prior to the beginning of the hearing or an
6 adjourned session thereof, the judge shall be informed of
7 that fact and of the probable effects of the medication upon
8 convening of the hearing. All persons not necessary for the
9 conduct of the proceeding shall be excluded, except that the
10 court may admit persons having a legitimate interest in the
11 proceeding. The respondent's welfare shall be paramount and
12 the hearing shall be conducted in as informal a manner as
13 may be consistent with orderly procedure, but consistent
14 therewith the issue shall be tried as a civil matter. Such
15 discovery as is permitted under the Iowa rules of civil
16 procedure shall be available to the respondent. The court
17 shall receive all relevant and material evidence which may
18 be offered and need not be bound by the rules of evidence.
19 There shall be a presumption in favor of the respondent, and
20 the burden of evidence in support of the contentions made
21 in the application shall be upon the applicant. If upon
22 completion of the hearing the court finds that the contention
23 that the respondent is seriously mentally impaired has not
24 been sustained by clear and convincing evidence, it shall
25 deny the application and terminate the proceeding.

26 Sec. 13. NEW SECTION. HOSPITALIZATION FOR EVALUATION.
27 If upon completion of the hearing the court finds that the
28 contention that the respondent is seriously mentally impaired
29 has been sustained by clear and convincing evidence, it shall
30 order the respondent placed in a hospital as expeditiously
31 as possible for a complete psychiatric evaluation and
32 appropriate treatment. The court shall furnish to the hospital
33 at the time the respondent arrives there a written finding
34 of fact setting forth the evidence on which the finding is
35 based. The chief medical officer of the hospital shall report

1 to the court no more than fifteen days after the individual
2 is admitted to the hospital, making a recommendation for
3 disposition of the matter. An extension of time may be granted
4 for not to exceed seven days upon a showing of cause. A copy
5 of the report shall be sent to the respondent's attorney,
6 who may contest the need for an extension of time if one is
7 requested. Extension of time shall be granted upon request
8 unless the request is contested, in which case the court shall
9 make such inquiry as it deems appropriate and may either order
10 the respondent's release from the hospital or grant extension
11 of time for psychiatric evaluation.

12 Sec. 14. NEW SECTION. CHIEF MEDICAL OFFICER'S REPORT.

13 The chief medical officer's report to the court on the
14 psychiatric evaluation of the respondent shall be made not
15 later than the expiration of the time specified in section
16 thirteen (13) of this Act. At least two copies of the report
17 shall be filed with the clerk, who shall dispose of them in
18 the manner prescribed by section ten (10), subsection two
19 (2) of this Act. The report shall state one of the four
20 following alternative findings:

21 1. That the respondent does not, as of the date of the
22 report, require further treatment for serious mental
23 impairment. If the report so states, the court shall order
24 the respondent's immediate release from involuntary
25 hospitalization and terminate the proceedings.

26 2. That the respondent is seriously mentally impaired
27 and in need of full-time custody, care and treatment in a
28 hospital, and is considered likely to benefit from treatment.
29 If the report so states, the court shall order the respondent's
30 continued hospitalization for appropriate treatment.

31 3. That the respondent is seriously mentally impaired
32 and in need of treatment, but does not require full-time
33 hospitalization. If the report so states it shall include
34 the chief medical officer's recommendation for treatment of
35 the respondent on an outpatient or other appropriate basis,

1 and the court shall enter an order directing the respondent
2 to submit to the recommended treatment. The order shall
3 provide that if the respondent fails or refuses to submit
4 to treatment as directed by the court's order, he or she shall
5 be taken into custody and treated as a patient requiring full-
6 time custody, care and treatment in a hospital until such
7 time as the chief medical officer reports that the respondent
8 does not require further treatment for serious mental
9 impairment or has indicated he or she is willing to submit
10 to treatment on another basis as ordered by the court.

11 4. The respondent is seriously mentally impaired and in
12 need of full-time custody and care, but is unlikely to benefit
13 from further treatment in a hospital. If the report so states,
14 the chief medical officer shall recommend an alternative
15 placement for the respondent and the court may order the
16 respondent's transfer to the recommended placement. If the
17 court or the respondent's attorney consider the placement
18 inappropriate, an alternative placement may be arranged upon
19 consultation with the chief medical officer and approval of
20 the court.

21 Sec. 15. NEW SECTION. PERIODIC REPORTS REQUIRED.

22 1. Not more than thirty days after entry of an order for
23 continued hospitalization of a patient under subsection two
24 (2) of section fourteen (14) of this Act, and thereafter at
25 successive intervals of not more than sixty days continuing
26 so long as involuntary hospitalization of the patient
27 continues, the chief medical officer of the hospital shall
28 report to the court which entered the order. The report shall
29 be submitted in the manner required by section fourteen (14)
30 of this Act, shall state whether the patient's condition has
31 improved, remains unchanged, or has deteriorated, and shall
32 indicate if possible the further length of time the patient
33 will be required to remain at the hospital. The chief medical
34 officer may at any time report to the court a finding as
35 stated in subsection four (4) of section fourteen (14) of

1 this Act, and the court shall act thereon as required by that
2 section.

3 2. Not more than sixty days after the entry of a court
4 order for treatment of a patient under subsection three (3)
5 of section fourteen (14) of this Act, and thereafter at
6 successive intervals as ordered y the court but not to exceed
7 ninety days so long as that court order remains in effect,
8 the medical director of the facility treating the patient
9 shall report to the court which entered the order. The report
10 shall state whether the patient's condition has improved,
11 remains unchanged, or has deteriorated, and shall indicate
12 if possible the further length of time the patient will require
13 treatment by the facility. If at any time the patient without
14 good cause fails or refuses to submit to treatment as ordered
15 by the court, the medical director shall at once so notify
16 the court, which shall order the patient hospitalzied as
17 provided by section fourteen (14), subsection three (3) of
18 this Act unless the court finds that the failure or refusal
19 was with good cause and that the patient is willing to receive
20 treatment as provided in the court's order, or in a revised
21 order if the court sees fit to enter one. If the medical
22 director at any time reports to the court that in his opinion
23 the patient requires full-time custody, care and treatment
24 in a hospital, the court may order the patient's involuntary
25 hospitalization for appropriate treatment upon consultation
26 with the chief medical officer of the hospital in which the
27 patient is to be hospitalized.

28 3. When a patient has been placed in a facility other
29 than a hospital pursuant to section fourteen (14), subsection
30 four (4) of this Act, a report on the patient's condition
31 and prognosis shall be made to the court which so placed the
32 patient, at least once every six months. The report shall
33 be submitted within fifteen days following the inspection,
34 required by section two hundred twenty-seven point two (227.2)
35 of the Code, of the facility in which the patient has been

1 placed.

2 4. When in the opinion of the chief medical officer the
3 best interest of a patient would be served by a convalescent
4 or limited leave or by transfer to a different hospital for
5 continued full-time custody, care and treatment, the chief
6 medical officer may authorize the leave or arrange and complete
7 the transfer but shall promptly report the leave or transfer
8 to the court. The patient's attorney or advocate may request
9 a hearing on a transfer. Nothing in this section shall be
10 construed to add to or restrict the authority otherwise
11 provided by law for transfer of patients or residents among
12 various state institutions administered by the department
13 of social services.

14 5. Upon receipt of any report required or authorized by
15 this section the court shall furnish a copy to the patient's
16 attorney, or alternatively to the advocate appointed as
17 required by section nineteen (19) of this Act. The court
18 shall examine the report and take the action thereon which
19 it deems appropriate. Should the court fail to receive any
20 report required by this section or section fourteen (14) of
21 this Act at the time the report is due, the court shall
22 investigate the reason for the failure to report and take
23 whatever action may be necessary in the matter.

24 Sec. 16. NEW SECTION. DISCHARGE AND TERMINATION OF
25 PROCEEDING. When in the opinion of the chief medical officer
26 a patient who is hospitalized under subsection two (2), or
27 is receiving treatment under subsection three (3), or is in
28 full-time care and custody under subsection four (4) of section
29 fourteen (14) of this Act no longer requires treatment or
30 care for serious mental impairment, the chief medical officer
31 shall tentatively discharge the patient and immediately report
32 that fact to the court which ordered the patient's hospitali-
33 zation or care and custody. The court shall thereupon issue
34 an order confirming the patient's discharge from the hospital
35 or from care and custody, as the case may be, and shall

1 terminate the proceedings pursuant to which the order was
2 issued. Copies of the order shall be sent by certified mail
3 to the hospital and the patient.

4 Sec. 17. NEW SECTION. STATUS OF RESPONDENT DURING APPEAL.

5 Where a respondent appeals to the supreme court from a finding
6 that the contention the respondent is seriously mentally
7 impaired has been sustained, and the respondent was previously
8 ordered taken into immediate custody under section eleven
9 (11) of this Act or has been hospitalized for psychiatric
10 evaluation and appropriate treatment under section thirteen
11 (13) of this Act before the court is informed of intent to
12 appeal its finding, the respondent shall remain in custody
13 as previously ordered by the court, the time limit stated
14 in section eleven (11) notwithstanding, or shall remain in
15 the hospital subject to compliance by the hospital with
16 sections thirteen (13) through sixteen (16) of this Act, as
17 the case may be, unless the supreme court orders otherwise.

18 Sec. 18. NEW SECTION. STATUS OF RESPONDENT IF HOSPITALIZA-

19 TION IS DELAYED. When the court directs that a respondent
20 who was previously ordered taken into immediate custody under
21 section eleven (11) of this Act be placed in a hospital for
22 psychiatric evaluation and appropriate treatment under section
23 thirteen (13) of this Act, and no suitable hospital can
24 immediately admit the respondent, the respondent shall remain
25 in custody as previously ordered by the court, the time limit
26 stated in section eleven (11) notwithstanding, until a suitable
27 hospital can admit the respondent. The court shall take
28 appropriate steps to expedite the admission of the respondent
29 to a suitable hospital at the earliest feasible time.

30 Sec. 19. NEW SECTION. ADVOCATE APPOINTED. The district

31 court in each county shall appoint an individual who has
32 demonstrated by prior activities an informed concern for the
33 welfare and rehabilitation of the mentally ill, and who is
34 not an officer or employee of the department of social services
35 nor of any agency or facility providing care or treatment

1 to the mentally ill, to act as advocate representing the
2 interests of all patients involuntarily hospitalized by that
3 court, in any matter relating to the patients' hospitaliza-
4 tion or treatment under sections fourteen (14) or fifteen
5 (15) of this Act. The advocate's responsibility with respect
6 to any patient shall begin at whatever time the attorney
7 employed or appointed to represent that patient as respondent
8 in hospitalization proceedings, conducted under sections six
9 (6) through thirteen (13) of this Act, reports to the court
10 that his or her services are no longer required and requests
11 the court's approval to withdraw as counsel for that patient.
12 The clerk shall furnish the advocate with a copy of the court's
13 order approving the withdrawal. The advocate's duties shall
14 include reviewing each report submitted pursuant to sections
15 fourteen (14) and fifteen (15) of this Act concerning any
16 patient whose interests, as a patient, the advocate is required
17 to represent under this section, and if the advocate is not
18 an attorney, advising the court at any time it appears that
19 the services of an attorney are required to properly safeguard
20 the patient's interests. The court shall from time to time
21 prescribe reasonable compensation for the services of the
22 advocate. Such compensation shall be based upon reports filed
23 by the advocate at such times and in such forms as the court
24 shall prescribe. The report shall briefly state what the
25 advocate has done with respect to each patient and the amount
26 of time spent. The advocate's compensation shall be paid
27 on order of the court from the county mental health and
28 institutions fund of the county in which the court is located.

29 Sec. 20. NEW SECTION. RESPONDENTS CHARGED WITH OR CON-
30 VICTED OF CRIME.

31 1. If the court orders a respondent placed in a hospital
32 for psychiatric evaluation and appropriate treatment at a
33 time when the respondent has been convicted of a public
34 offense, or when there is pending against the respondent an
35 unresolved formal charge of a public offense, and the

1 respondent's liberty has therefore been restricted in any
2 manner, the finding of fact required by section thirteen (13)
3 of this Act shall clearly so inform the chief medical officer
4 of the hospital where the respondent is placed.

5 2. When a proceeding under section six (6) and succeeding
6 sections of this Act arises under sections seven hundred
7 eighty-three point five (783.5) or seven hundred eighty-nine
8 point eight (789.8) of the Code, and the respondent through
9 his attorney waives the hearing otherwise required by sec-
10 tion twelve (12) of this Act, the court may immediately order
11 the respondent placed in a hospital for a complete psychiatric
12 evaluation and appropriate treatment pursuant to section thir-
13 teen (13) of this Act. In such cases, the court may in its
14 discretion order or waive the physician's examination otherwise
15 required under section ten (10) of this Act.

16 Sec. 21. NEW SECTION. JUDICIAL HOSPITALIZATION REFEREE.

17 1. As soon as practicable after the adoption of this Act
18 the judges in each judicial district shall meet and shall
19 determine, individually for each county in the district,
20 whether it appears that one or more district judges will be
21 sufficiently accessible in that county to make it feasible
22 for them to perform at all times the duties prescribed by
23 sections seven (7) through twenty (20) of this Act and by
24 chapter two hundred twenty-four (224) of the Code. If the
25 judges find that accessibility of district court judges in
26 any county is not sufficient for this purpose, the chief judge
27 of the district shall appoint in that county a judicial
28 hospitalization referee. The judges in any district may at
29 any time review their determination, previously made under
30 this subsection with respect to any county in the district,
31 and pursuant to that review may authorize appointment of a
32 judicial hospitalization referee, or abolish the office, in
33 that county.

34 2. The judicial hospitalization referee shall be an
35 attorney, licensed to practice law in this state, who shall

1 be chosen with consideration to any training, experience,
2 interest, or combination of those factors, which are pertinent
3 to the duties of the office. The referee shall hold office
4 at the pleasure of and receive compensation at a rate fixed
5 by the chief judge of the district. If the referee expects
6 to be absent from the county for any significant length of
7 time, the referee shall inform the chief judge who may appoint
8 a temporary substitute judicial hospitalization referee having
9 the qualifications set forth in this subsection.

10 3. When an application for involuntary hospitalization
11 is filed with the clerk of the district court in any county
12 for which a judicial hospitalization referee has been
13 appointed, and no district judge is accessible in the county,
14 the clerk shall immediately notify the referee in the manner
15 required by section seven (7) of this Act. The referee shall
16 thereupon discharge all of the duties imposed upon judges
17 of the district court by sections seven (7) through twenty
18 (20) of this Act in the proceeding so initiated. Upon
19 termination of the proceeding or issuance of an order under
20 section thirteen (13) of this Act, the referee shall transmit
21 either to the chief judge, or another judge of the district
22 court designated by the chief judge, a statement of the reasons
23 for the referee's action and a copy of any order issued.

24 4. Any respondent with respect to whom the judicial
25 hospitalization referee has found the contention that he or
26 she is seriously mentally impaired sustained by clear and
27 convincing evidence presented at a hearing held under section
28 twelve (12) of this Act, may appeal from the referee's finding
29 to a judge of the district court by giving the clerk notice
30 in writing, within seven days after the referee's finding
31 is made, that an appeal therefrom is taken. The appeal may
32 be signed by the respondent or by the respondent's next friend,
33 guardian or attorney. When so appealed, the matter shall
34 stand for trial de novo. Upon appeal, the court shall schedule
35 a hospitalization hearing before a district judge at the

1 earliest practicable time.

2 5. If the appellant is in custody under the jurisdiction
3 of the district court at the time of service of the notice
4 of appeal, he or she shall be discharged from custody unless
5 an order that the appellant be taken into immediate custody
6 has previously been issued under section eleven (11) of this
7 Act, in which case the appellant shall be detained as provided
8 in that section until the hospitalization hearing before the
9 district judge. If the appellant is in the custody of a
10 hospital at the time of service of the notice of appeal, he
11 or she shall be discharged from custody pending disposition
12 of the appeal unless the chief medical officer, not later
13 than the end of the next secular day on which the office of
14 the clerk is open and which follows service of the notice
15 of appeal, files with the clerk a certification that in the
16 chief medical officer's opinion the appellant is seriously
17 mentally ill. In that case, the appellant shall remain in
18 custody of the hospital until the hospitalization hearing
19 before the district court.

20 6. The hospitalization hearing before the district judge
21 shall be held, and the judge's finding shall be made and an
22 appropriate order entered, as prescribed by sections twelve
23 (12) and thirteen (13) of this Act. If the judge orders the
24 appellant hospitalized for a complete psychiatric evaluation,
25 jurisdiction of the matter shall revert to the judicial
26 hospitalization referee.

27 Sec. 22. NEW SECTION. HOSPITALIZATION--EMERGENCY PROCE-
28 DURE.

29 1. The procedure prescribed by this section shall not
30 be used unless it appears that a person should be immediately
31 detained due to serious mental impairment, but that person
32 cannot be immediately detained by the procedure prescribed
33 in sections six (6) and eleven (11) of this Act because there
34 is no means of immediate access to the district court.

35 2. In the circumstances described in subsection one (1)

1 of this section, any peace officer who has reasonable grounds
2 to believe that a person is mentally ill, and because of that
3 illness is likely to physically injure himself or herself
4 or others if not immediately detained, may without a warrant
5 take or cause that person to be taken to the nearest available
6 facility as defined in section eleven (11), subsections two
7 (2) and three (3) of this Act. Immediately upon taking the
8 person into custody, the nearest available magistrate, as
9 defined in section seven hundred forty-eight point one (748.1)
10 of the Code, shall be notified and shall immediately proceed
11 to the facility. The magistrate shall in the manner prescribed
12 by section eight (8), subsection one (1) of this Act insure
13 that the person has or is provided legal counsel at the
14 earliest practicable time, and shall arrange for the coun-
15 sel to be present, if practicable, before proceeding under
16 this section. The peace officer who took the person into
17 custody shall remain until the magistrate's arrival and shall
18 describe the circumstances of the detention to the magistrate.
19 If the magistrate finds that there is probable cause to believe
20 that the person is seriously mentally impaired, and because
21 of that impairment is likely to physically injure himself
22 or herself or others if not immediately detained, he or she
23 shall enter a written order for the person to be detained
24 in custody and, if the facility where the person is at that
25 time is not an appropriate hospital, transported to an
26 appropriate hospital. The magistrate's order shall state
27 the circumstances under which the person was taken into custody
28 and the grounds supporting the finding of probable cause to
29 believe that he or she is seriously mentally impaired and
30 likely to physically injure himself or herself or others if
31 not immediately detained. A certified copy of the order shall
32 be delivered to the chief medical officer of the hospital
33 where the person is detained, at the earliest practicable
34 time.

35 3. The chief medical officer of the hospital shall examine

1 and may detain and care for the person taken into custody
2 under the magistrate's order for a period not to exceed forty-
3 eight hours, excluding Saturdays, Sundays and holidays. The
4 hospital may provide treatment which is necessary to preserve
5 the person's life, or to appropriately control behavior by
6 the person which is likely to result in physical injury to
7 himself or herself or others if allowed to continue, but may
8 not otherwise provide treatment to the person without his
9 or her consent. The person shall be discharged from the
10 hospital and released from custody not later than the
11 expiration of that period, unless an application for his or
12 her involuntary hospitalization is sooner filed with the clerk
13 pursuant to section six (6) of this Act. The detention of
14 any person by the procedure and not in excess of the period
15 of time prescribed by this section shall not render the peace
16 officer, physician or hospital so detaining that person liable
17 in a criminal or civil action for false arrest or false
18 imprisonment if the peace officer, physician or hospital had
19 reasonable grounds to believe the person so detained was
20 mentally ill and likely to physically injure himself or herself
21 or others if not immediately detained.

22 4. The cost of hospitalization at a public hospital of
23 a person detained temporarily by the procedure prescribed
24 in this section shall be paid in the same way as if the person
25 had been admitted to the hospital by the procedure prescribed
26 in sections six (6) through thirteen (13) of this Act.

27 Sec. 23. NEW SECTION. RIGHTS AND PRIVILEGES OF
28 HOSPITALIZED PERSONS. Every person who is hospitalized or
29 detained under this Act shall have the right to:

30 1. Prompt evaluation, emergency psychiatric services,
31 and care and treatment as indicated by sound medical practice.

32 2. The right to refuse treatment by shock therapy or
33 chemotherapy, unless the use of these treatment modalities
34 is specifically consented to by the patient's next-of-kin
35 or guardian.

1 3. In addition to protection of his constitutional rights,
2 enjoyment of other legal, medical, religious, social,
3 political, personal and working rights and privileges which
4 he would enjoy if he were not so hospitalized or detained,
5 so far as is possible consistent with effective treatment
6 of that person and of the other patients of the hospital.
7 If the patient's rights are restricted, the physician's
8 direction to that effect shall be noted on the patient's
9 record. The department of social services shall, in accordance
10 with chapter seventeen A (17A) of the Code establish rules
11 setting forth the specific rights and privileges to which
12 persons so hospitalized or detained are entitled under this
13 section, and the exceptions provided by section seventeen
14 A point two (17A.2), subsection seven (7), paragraphs a and
15 k, shall not be applicable to the rules so established. The
16 patient or his or her next-of-kin or friend shall be advised
17 of these rules and be provided a written copy upon the
18 patient's admission to or arrival at the hospital.

19 Sec. 24. NEW SECTION. RECORDS OF INVOLUNTARY
20 HOSPITALIZATION PROCEEDING TO BE CONFIDENTIAL.

21 1. All papers and records pertaining to any involuntary
22 hospitalization or application for involuntary hospitalization
23 of any person under this Act, whether part of the permanent
24 record of the court or of a file in the department of social
25 services, are subject to inspection only upon an order of
26 the court for good cause shown. Nothing in this section shall
27 prohibit a hospital from complying with the requirements of
28 this Act and of chapter two hundred thirty (230) of the Code
29 relative to financial responsibility for the cost of care
30 and treatment provided a patient in that hospital, nor from
31 properly billing any responsible relative or third-party payer
32 for such care and treatment.

33 2. If authorized in writing by a person who has been the
34 subject of any proceeding or report under sections six (6)
35 through thirteen (13) or section twenty-two (22) of this Act,

1 or by the parent or guardian of that person, information
2 regarding that person which is confidential under subsection
3 one (1) of this section may be released to any designated
4 person.

5 Sec. 25. NEW SECTION. MEDICAL RECORDS TO BE CONFIDENTIAL-
6 -EXCEPTIONS. The records maintained by a hospital relating
7 to the examination, custody, care and treatment of any person
8 in that hospital pursuant to this Act shall be confidential,
9 except that the chief medical officer may release appropriate
10 information when:

11 1. The information is requested by a licensed physician
12 who provides the chief medical officer with a written waiver
13 signed by the person about whom the information is sought;
14 or

15 2. The information is sought by a court order; or

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

21 Sec. 26. NEW SECTION. EXCLUSIVE PROCEDURE FOR INVOLUNTARY
22 HOSPITALIZATION. Sections six (6) through twenty (20),
23 inclusive, of this Act shall constitute the exclusive procedure
24 for involuntary hospitalization of persons by reason of serious
25 mental impairment in this state, except that nothing in this
26 Act shall negate the provisions of sections two hundred forty-
27 five point twelve (245.12) and two hundred forty-six point
28 sixteen (246.16) of the Code relative to transfer of mentally
29 ill prisoners to state hospitals for the mentally ill.

30 Sec. 27. NEW SECTION. HOSPITALIZATION NOT TO EQUATE WITH
31 INCOMPETENCY--PROCEDURE FOR FINDING INCOMPETENCY DUE TO MENTAL
32 ILLNESS.

33 1. Hospitalization of any person under this Act, either
34 voluntarily or involuntarily, shall not be deemed to constitute
35 a finding of or to equate with nor raise a presumption of

1 incompetency, or to cause the person so hospitalized to be
2 deemed a lunatic, a person of unsound mind, or a person under
3 legal disability for any purpose including but not limited
4 to any circumstances to which sections four hundred forty-
5 seven point seven (447.7), four hundred seventy-two point
6 fifteen (472.15), five hundred forty-five point two (545.2),
7 subsection thirteen (13), five hundred forty-five point eleven
8 (545.11), subsection seven (7), five hundred forty-five point
9 thirty-six (545.36), five hundred sixty-seven point seven
10 (567.7), five hundred ninety-five point three (595.3), five
11 hundred ninety-seven point six (597.6), five hundred ninety-
12 eight point twenty-nine (598.29), six hundred fourteen point
13 eight (614.8), six hundred fourteen point nineteen (614.19),
14 six hundred fourteen point twenty-two (614.22), six hundred
15 fourteen point twenty-four (614.24), six hundred fourteen
16 point twenty-seven (614.27), six hundred twenty-two point
17 six (622.6), six hundred thirty-three point two hundred forty-
18 four (633.244), six hundred thirty-three point two hundred
19 sixty-six (633.266), subsection four (4), and six hundred
20 seventy-five point twenty-one (675.21) of the Code are
21 applicable.

22 2. The applicant may, in initiating a petition for
23 involuntary hospitalization of a person under section six
24 (6) of this Act or at any subsequent time prior to conclusion
25 of the involuntary hospitalization proceeding, also petition
26 the court for a finding that the person is incompetent by
27 reason of mental illness. The test of competence for the
28 purpose of this section shall be whether the person possesses
29 sufficient mind to understand in a reasonable manner the
30 nature and effect of the act in which he or she is engaged;
31 the fact that a person is mentally ill and in need of treatment
32 for that illness but because of the illness lacks sufficient
33 judgment to make responsible decisions with respect to his
34 or her hospitalization or treatment does not necessarily mean
35 that that person is incapable of transacting business on any

1 subject.

2 3. A hearing limited to the question of the person's
3 competence and conducted in substantially the manner prescribed
4 in sections six hundred thirty-three point five hundred fifty-
5 two (633.552) through six hundred thirty-three point five
6 hundred fifty-six (633.556) of the Code shall be held when:

7 a. The court is petitioned or proposes upon its own motion
8 to find incompetent by reason of mental illness a person whose
9 involuntary hospitalization has been ordered under sections
10 thirteen (13) or fourteen (14) of this Act, and who contends
11 that he or she is not incompetent; or

12 b. A person previously found incompetent by reason of
13 mental illness under subsection two (2) of this section
14 petitions the court for a finding that he or she is no longer
15 incompetent and, after notice to the applicant who initiated
16 the petition for hospitalization of the person and to any
17 other party as directed by the court, an objection is filed
18 with the court. The court may order a hearing on its own
19 motion before acting on a petition filed under this paragraph.
20 A petition by a person for a finding that he or she is no
21 longer incompetent may be filed at any time without regard
22 to whether the person is at that time hospitalized for
23 treatment of mental illness.

24 4. Nothing in this Act shall preclude use of any other
25 procedure authorized by law for declaring any person legally
26 incompetent for reasons which may include mental illness,
27 without regard to whether that person is or has been
28 hospitalized for treatment of mental illness.

29 Sec. 28. NEW SECTION. HOSPITALIZATION IN CERTAIN FEDERAL
30 FACILITIES. When a court finds that the contention that a
31 respondent is seriously mentally impaired has been sustained
32 or proposes to order continued hospitalization of any person,
33 or an alternative placement, under section fourteen (14),
34 subsection two (2) or four (4) of this Act, and the court
35 is furnished evidence that the respondent or patient is

1 eligible for care and treatment in a facility operated by
2 the veterans administration or another agency of the United
3 States government and that the facility is willing to receive
4 the respondent or patient, the court may so order. The
5 respondent or patient, when so hospitalized or placed in a
6 facility operated by the veterans administration or another
7 agency of the United States government within or outside of
8 this state, shall be subject to the rules of the veterans
9 administration or other agency, but shall not thereby lose
10 any procedural rights afforded the respondent or patient by
11 this Act. The chief officer of the facility shall have, with
12 respect to the person so hospitalized or placed, the same
13 powers and duties as the chief medical officer of a hospital
14 in this state would have in regard to submission of reports
15 to the court, retention of custody, transfer, convalescent
16 leave or discharge. Jurisdiction is retained in the court
17 to maintain surveillance of the person's treatment and care,
18 and at any time to inquire into that person's mental condition
19 and the need for continued hospitalization or care and custody.

20 Sec. 29. NEW SECTION. TRANSFER TO CERTAIN FEDERAL FACILI-
21 TIES. Upon receipt of a certificate stating that any person
22 involuntarily hospitalized under this Act is eligible for
23 care and treatment in a facility operated by the veterans
24 administration or another agency of the United States
25 government which is willing to receive the person without
26 charge to the state of Iowa or any county in the state, the
27 chief medical officer may transfer the person to that facility.
28 Upon so doing, the chief medical officer shall notify the
29 court which ordered the person's hospitalization in the same
30 manner as would be required in the case of a transfer under
31 section fifteen (15), subsection four (4) of this Act, and
32 the person transferred shall be entitled to the same rights
33 as he or she would have under that subsection. No person
34 shall be transferred under this section who is confined
35 pursuant to conviction of a public offense or whose

1 hospitalization was ordered upon contention of incompetence
2 to stand trial by reason of mental illness, without prior
3 approval of the court which ordered that person's hospital-
4 ization.

5 Sec. 30. NEW SECTION. ORDERS OF COURTS IN OTHER STATES.

6 A judgment or order of hospitalization or commitment by a
7 court of competent jurisdiction of another state or the
8 District of Columbia, under which any person is hospitalized
9 or placed in a facility operated by the veterans administration
10 or another agency of the United States government, shall have
11 the same force and effect with respect to that person while
12 he or she is in this state as the judgment or order would
13 have if the person were in the jurisdiction of the court which
14 issued it. That court shall be deemed to have retained
15 jurisdiction of the person so hospitalized or placed for the
16 purpose of inquiring into that person's mental condition and
17 the need for continued hospitalization or care and custody,
18 as do courts in this state under section twenty-eight (28)
19 of this Act. Consent is hereby given to the application of
20 the law of the state or district in which is situated the
21 court which issued the judgment or order as regards authority
22 of the chief officer of any facility, operated in this state
23 by the veterans administration or another agency of the United
24 States government, to retain custody, transfer, place on
25 convalescent leave or discharge the person so hospitalized
26 or committed.

27 Sec. 31. Sections two hundred twenty-nine point one (229.1)
28 through two hundred twenty-nine point thirty (229.30), inclu-
29 sive, Code 1975, are repealed and sections one (1) through
30 thirty (30) of this Act adopted in lieu thereof.

31 Sec. 32. Section four point one (4.1), subsection six
32 (6), Code 1975, is amended to read as follows:

33 6. MENTALLY ILL. The words "mentally ill person" include
34 mental retardates, lunatics, distracted persons, and persons
35 of unsound mind. No person who is hospitalized or detained

1 for treatment of mental illness shall be deemed or presumed
2 to be incompetent in the absence of a finding of incompetence
3 made pursuant to section twenty-three (23) of this Act.

4 Sec. 33. Section forty-eight point thirty (48.30), Code
5 1975, is amended to read as follows:

6 48.30 NOTIFICATION OF CHANGES IN REGISTRATION. The clerk
7 of the district court shall promptly notify the county
8 commissioner of registration of changes of name and of
9 convictions of infamous crimes or felonies, of legal
10 declarations of mental incompetence made after a proceeding
11 held pursuant to section twenty-seven (27) of this Act, and
12 of diagnosis of severe or profound mental retardation, or
13 of severe psychiatric illness of persons of voting age. The
14 clerk of the district court shall also notify the county
15 commissioner of registration of the restoration of citizenship
16 of a person who has been convicted of an infamous crime or
17 felony and of the finding that a person is of good mental
18 health. The notice will not restore voter registration.
19 The county commissioner of registration shall notify the
20 person whose citizenship has been restored or who has been
21 declared to be in good mental health that his registration
22 to vote was canceled and he must register again to become
23 a qualified elector.

24 Sec. 34. Section forty-eight point thirty-one (48.31),
25 subsection six (6), Code 1975, is amended to read as follows:

26 6. The clerk of district court sends notification of a
27 legal determination that the elector is severely or profoundly
28 mentally retarded, or has been ~~diagnosed as ill for severe~~
29 ~~psychiatric reasons~~ found incompetent in a proceeding held
30 pursuant to section twenty-seven (27) of this Act, or is
31 otherwise under conservatorship or guardianship by reason
32 of incompetency. Certification by the ~~superintendent of a~~
33 ~~mental health hospital or other institution upon the dis-~~
34 ~~charge of~~ clerk that any such person that he is, at that time,
35 restored to good mental health shall qualify such person to

1 ~~again-be-an-electer,-subject-to-the-other-provisions-of-this~~
2 ~~chapter.--Termination~~ has been found no longer incompetent
3 by a court, or the termination by the court of any such
4 conservatorship or guardianship shall qualify any such ward
5 to again be an elector, subject to the other provisions of
6 this chapter.

7 Sec. 35. Section two hundred eighteen point forty-six
8 (218.46), subsection two (2), Code 1975, is amended to read
9 as follows:

10 2. The directors of such state institutions are authorized
11 to provide services and facilities for the scientific
12 observation, rechecking and treatment of mentally ill persons
13 within the state. Application by, or on behalf of, any person
14 for such services and facilities shall be made to the director
15 in charge of the particular institution involved and shall
16 be made on forms furnished by such director. The time and
17 place of admission of any person to outpatient or clinical
18 services and facilities for scientific observation, rechecking
19 and treatment and the use of such services and facilities
20 for the benefit of persons who have already been ~~committed~~
21 hospitalized for psychiatric evaluation and appropriate
22 treatment or involuntarily hospitalized as seriously mentally
23 ill shall be in accordance with rules and regulations adopted
24 by the director in control of the particular institution
25 involved.

26 Sec. 36. Section two hundred eighteen point ninety-two
27 (218.92), Code 1975, is amended to read as follows:

28 218.92 DANGEROUS MENTAL PATIENTS. Whenever a patient
29 in any state hospital-school for the mentally retarded, any
30 mental health institute, or any institution under the
31 administration of the director of the division of mental
32 health of the department of social services, has become so
33 mentally disturbed as to constitute a danger to self, to other
34 patients in the institution or to the public, and the insti-
35 tution involved cannot provide adequate security, the director

1 of ~~such-institution~~ mental health with the consent of the
2 director of corrections of the department of social services
3 may order the patient to be transferred to the Iowa security
4 medical facility, provided that the executive head of the
5 institution ~~involved~~ from which the patient is to be
6 transferred, with the support of a majority of his medical
7 staff, recommends the transfer in the interest of the patient,
8 other patients or the public. ~~The order of the director of~~
9 ~~the division of mental health shall have the same force and~~
10 ~~effect as a warrant of commitment for mental illness.~~ If
11 the patient transferred was hospitalized pursuant to sections
12 six (6) through fifteen (15) of this Act, the transfer shall
13 be promptly reported to the court which hospitalized the
14 patient, as required by section fifteen (15), subsection three
15 (3), of this Act. The Iowa security medical facility shall
16 have the same rights, duties and responsibilities with respect
17 to the patient as the institution from which the patient was
18 transferred had while the patient was hospitalized there.
19 The cost of the transfer shall be paid from the funds of the
20 institution from which the transfer is made.

21 Sec. 37. Section two hundred eighteen point ninety-five
22 (218.95), subsection one (1), Code 1975, is amended to read
23 as follows:

24 1. "Mentally ill" and "insane", except that the
25 hospitalization or detention of any person for treatment of
26 mental illness shall not constitute a finding or create a
27 presumption that the individual is legally insane in the
28 absence of a finding of incompetence made pursuant to section
29 twenty-seven (27) of this Act;

30 Sec. 38. Section two hundred twenty-two point seven
31 (222.7), Code 1975, is amended to read as follows:

32 222.7 TRANSFERS. The state director may transfer patients
33 from one state hospital-school to the other and may at any
34 time transfer any patient from the hospital-schools to the
35 hospitals for the mentally ill, or ~~from the latter to the~~

1 ~~former~~, transfer patients in the hospital-schools to a special
2 unit or vice versa, or make such transfers as are permitted
3 in section 218.92. The state director may also transfer
4 patients from a hospital for the mentally ill to a hospital-
5 school if:

6 1. In the case of a patient who entered the hospital for
7 the mentally ill voluntarily, consent is given in advance
8 by the patient or, if the patient is a minor or is incompetent,
9 the person responsible for the patient.

10 2. In the case of a patient hospitalized pursuant to
11 sections six (6) through fifteen (15) of this Act, the consent
12 of the court which hospitalized the patient is obtained in
13 advance, rather than afterward as otherwise permitted by
14 section fifteen (15), subsection three (3) of this Act.

15 Sec. 39. Section two hundred twenty-two point fifty-five
16 (222.55), Code 1975, is amended to read as follows:

17 222.55 PROCEDURE AS MENTALLY ILL PERSON. If it appears
18 at any time that a person has under the provisions of this
19 chapter been placed under guardianship or committed to a
20 private institution and should be ~~committed to~~ evaluated and
21 treated in a hospital for the mentally ill, the person may
22 be ~~preceeded-against~~ hospitalized under any of the chapters
23 ~~relating-to-the-mentally-ill~~ provisions of sections two (2)
24 through fifteen (15) of this Act.

25 Sec. 40. Section two hundred twenty-three point eight
26 (223.8), unnumbered paragraph one (1), Code 1975, is amended
27 to read as follows:

28 Chapter 230 shall govern the determination of the costs
29 and charges for the care and treatment of mentally ill patients
30 admitted to the Iowa security medical facility as direct civil
31 commitments upon authorization of ~~a-county-hospitalization~~
32 ~~emission~~ the district court, or as persons having no legal
33 settlement in this state. The charge for the cost of other
34 admittees shall be as follows:

35 Sec. 41. Section two hundred twenty-four point one (224.1),

1 Code 1975, is amended to read as follows:

2 224.1 COMMITMENT. Persons addicted to the excessive use
3 of any controlled substance contained in schedules I, II,
4 III, or IV of chapter 204 may be committed by the ~~commissioners~~
5 ~~of-hospitalization~~ district court of each county to such
6 institutions as the commissioner of the state department of
7 social services may designate, or to such private facilities
8 as the Iowa drug abuse authority may designate; or to any
9 hospital accredited to give psychiatric care, provided that,
10 commitments to private facilities shall only be made upon
11 approval of the board of supervisors or upon agreement by
12 the patient or responsible relatives to pay the full costs
13 of treatment and upon having made the necessary arrangements
14 for admission and support.

15 Sec. 42. Section two hundred twenty-five point ten
16 (225.10), Code 1975, is amended to read as follows:

17 225.10 ~~APPLICATION-FOR-ADMISSION~~ VOLUNTARY PUBLIC PATIENTS.

18 Persons suffering from mental diseases may be admitted as
19 ~~committed~~ voluntary public patients as follows: Any physician
20 authorized to practice ~~his-profession~~ medicine, osteopathy
21 or osteopathic medicine in the state of Iowa ~~or-any-citizen~~
22 ~~of-the-state~~ may file information with any district court
23 of the state or with any judge thereof, ~~alleging~~ stating that
24 the physician has examined the person named therein and finds
25 that the person is suffering from some abnormal mental
26 condition that can probably be remedied by observation,
27 treatment, and hospital care; that the physician believes
28 it would be appropriate for the person to enter the state
29 psychopathic hospital for that purpose and that the person
30 is willing to do so; and that he-is,-of-himself-or-through
31 neither the person nor those legally responsible for him,
32 unable the person are able to provide the means for such
33 observation and hospital care.

34 Sec. 43. Section two hundred twenty-five point eleven
35 (225.11), Code 1975, is amended by striking the section and

1 inserting in lieu thereof the following:

2 225.11 INITIATING COMMITMENT PROCEDURES. When a court
3 finds upon completion of a hearing held pursuant to section
4 twelve (12) of this Act that the contention that a respondent
5 is seriously mentally impaired has been sustained by clear
6 and convincing evidence, and the application filed under
7 section six (6) of this Act also contends or the court
8 otherwise concludes that it would be appropriate to refer
9 the respondent to the state psychopathic hospital for a com-
10 plete psychiatric evaluation and appropriate treatment pursuant
11 to section thirteen (13) of this Act, the judge may order
12 that a financial investigation be made in the manner prescribed
13 by section two hundred twenty-five point thirteen (225.13)
14 of the Code.

15 Sec. 44. Section two hundred twenty-five point twelve
16 (225.12), Code 1975, is amended to read as follows:

17 225.12 EXAMINATION-AND VOLUNTARY PUBLIC PATIENT--
18 PHYSICIAN'S REPORT. ~~Said~~ A physician filing an information
19 under section two hundred twenty-five point ten (225.10) of
20 the Code shall make include a written report to the said
21 judge, giving such a history of the case as will be likely
22 to aid in the observation, treatment, and hospital care of
23 said the person named in the information and describing the
24 same, all in detail, and stating whether or not, in his
25 opinion, the said person would probably be helped by obser-
26 vation, treatment, and hospital care in said state psychopathic
27 hospital.--Such report shall be made within such time as may
28 be fixed by the court.

29 Sec. 45. Section two hundred twenty-five point thirteen
30 (225.13), Code 1975, is amended to read as follows:

31 225.13 FINANCIAL CONDITION. It shall be the duty of the
32 ~~said~~ judge to have a thorough investigation made by the county
33 attorney of the county in which of residence of the said
34 person resides named in the information, regarding his the
35 financial condition and the financial condition of that person

1 and of those legally responsible for him that person.

2 Sec. 46. Section two hundred twenty-five point fourteen
3 (225.14), Code 1975, is amended to read as follows:

4 225.14 ~~NOTICE--TRIAL FINDING AND ORDER.~~ Upon the filing
5 of ~~such the~~ report ~~or-reports,~~ said of a financial
6 investigation made pursuant to an order issued under section
7 two hundred twenty-five point eleven (225.11) of the Code,
8 the judge of the district court as aforesaid shall fix-a-day
9 ~~for-the-hearing-upon-the-complaint-and-shall-cause-the-person~~
10 ~~or-these-legally-responsible-for-him-to-be-served-with-a~~
11 ~~notice-of-the-hearing,-and-he-shall-also-notify-the-county~~
12 ~~attorney,-who-shall-appear-and-conduct-the-proceedings,-and~~
13 ~~upon-such-complaint-evidence-may-be-introduced.--Upon-such~~
14 ~~hearing-the-person-against-whom-the-complaint-is-made-shall~~
15 ~~be-entitled-to-a-trial-by-jury~~ review it and make a
16 determination in the matter. If the judge ~~or-jury~~ finds that
17 the ~~said-person~~ respondent is ~~suffering-from-an-abnormal~~
18 ~~mental-condition-which-can-probably-be-remedied-by-observation,-~~
19 ~~medical-or-surgical-treatment,-and-hospital-care~~ an appropriate
20 subject for referral to the state psychopathic hospital,
21 and that ~~he,-or~~ the respondent and those legally responsible
22 for him, or her are unable to pay the expenses thereof, ~~said~~
23 the judge shall enter an order directing that the ~~said-person~~
24 respondent shall be sent to the state psychopathic hospital
25 at the state University of Iowa for observation, treatment,
26 and hospital care as a committed public patient.

27 Sec. 47. Section two hundred twenty-five point fifteen
28 (225.15), unnumbered paragraph one (1), Code 1975, is amended
29 to read as follows:

30 225.15 EXAMINATION AND TREATMENT. When the patient
31 respondent arrives at ~~said~~ the state psychopathic hospital
32 it shall be the duty of the director, or of some physician
33 acting for him, to examine the ~~said-patient~~ respondent and
34 determine whether or not, in ~~his~~ the physician's judgment,
35 he the patient is a fit subject for such observation,

1 treatment, and hospital care. If, upon said examination,
2 he the physician decides that such patient should be admitted
3 to the said hospital, the medical director shall provide him
4 the patient with a proper bed in said the hospital; and the
5 physician or surgeon who shall have charge of said the patient
6 shall proceed with such observation, medical or surgical
7 treatment, and hospital care as in his the physician's judgment
8 are proper and necessary, in compliance with sections thirteen
9 (13) through sixteen (16) of this Act.

10 Sec. 48. Section two hundred twenty-five point sixteen
11 (225.16), Code 1975, is amended to read as follows:

12 225.16 VOLUNTARY PUBLIC PATIENTS--COMMITMENT ADMISSION.
13 If the said judge of the district court, or the clerk of the
14 court, as aforesaid, finds from the physician's report
15 information which was filed under the provisions of section
16 225.12 two hundred twenty-five point ten (225.10) of the Code,
17 that it would be appropriate for the said person is-suffering
18 from-an-abnormal-mental-condition-which-can-probably-be
19 remedied-by-observation,-medical-or-surgical-treatment,-and
20 hospital-care to enter the state psychopathic hospital, and
21 the report of the county attorney shows that he,-or neither
22 the person nor those legally responsible for him, or her are
23 unable able to pay the expenses thereof, said or are able
24 to pay only a part of the expenses, the judge or clerk shall
25 enter an order directing that the said person shall be sent
26 to the state psychopathic hospital at the state University
27 of Iowa for observation, treatment, and hospital care as a
28 voluntary public patient,-provided-that-the-said-person,-or
29 those-legally-responsible-for-him,-request-the-said-court
30 or-judge-to-commit-said-person-without-the-hearing-which-is
31 required-under-the-provisions-of-section-225.14.

32 When the said patient arrives at the said hospital, he
33 or she shall receive the same treatment as is provided for
34 committed public patients in section 225.15.

35 Sec. 49. Section two hundred twenty-five point seventeen

1 (225.17), Code 1975, is amended to read as follows:

2 225.17 COMMITTED PRIVATE PATIENTS--TREATMENT. If the
3 ~~said~~ judge of the district court ~~7-as-aforesaid~~, finds ~~in-the~~
4 ~~hearing-as-provided-for~~ upon the review and determination
5 made under the provisions of section 225.14 that the ~~said~~
6 ~~person-is-suffering-from-an-abnormal-mental-condition-which~~
7 ~~can-probably-be-remedied-by-observation,medical-or-surgical~~
8 ~~treatment, and-hospital-care~~ respondent is an appropriate
9 subject for placement at the state psychopathic hospital,
10 and that ~~he~~ the respondent or those legally responsible
11 for him or her are able to pay the expenses thereof, ~~said~~
12 the judge shall enter an order directing that the said-person
13 respondent shall be sent to the state psychopathic hospital
14 at the state University of Iowa for observation, treatment,
15 and hospital care as a committed private patient.

16 When the ~~said-patient~~ respondent arrives at the ~~said~~
17 hospital, he or she shall receive the same treatment as is
18 provided for committed public patients in section 225.15,
19 in compliance with sections thirteen (13) through sixteen
20 (16) of this Act.

21 Sec. 50. Section two hundred twenty-five point twenty
22 (225.20), Code 1975, is amended to read as follows:

23 225.20 COMPENSATION FOR PHYSICIAN. The physician ~~appointed~~
24 ~~to-make~~ making the examination and-report on which is based
25 any information filed under section two hundred twenty-five
26 point ten (225.10) of the Code shall receive the such sum
27 of-five-dollars as the court may direct for each and every
28 examination and-report information so made, and his actual
29 necessary expenses incurred in making such investigation
30 examination, in conformity with the requirements of this
31 chapter, if the person named in the information is referred
32 to the state psychopathic hospital.

33 Sec. 51. Section two hundred twenty-five point twenty-
34 seven (225.27), Code 1975, is amended to read as follows:

35 225.27 DISCHARGE--TRANSFER. The medical director of the

1 state psychopathic hospital may, at any time, discharge any
2 patient as recovered, as improved, or as not likely to be
3 benefited by further treatment, ~~and upon said discharge said.~~
4 If the patient being so discharged was involuntarily
5 hospitalized, the director shall notify the committing judge
6 or court thereof, and the said as required by section four-
7 teen (14), subsection three (3), or section sixteen (16) of
8 this Act, whichever is applicable. The court or judge shall,
9 if necessary, appoint some person to accompany said the
10 discharged patient from the said state psychopathic hospital
11 to such place as he the director or the court may designate,
12 or authorize the said medical director to appoint such
13 attendant.

14 Sec. 52. Section two hundred twenty-five point thirty
15 (225.30), Code 1975, is amended to read as follows:

16 225.30 BLANKS--AUDIT. The medical faculty of the hospital
17 of the college of medicine of the state University of Iowa
18 shall prepare blanks containing such questions and requiring
19 such information as may be necessary and proper to be obtained
20 by the physician who examines ~~the patient under order of~~
21 ~~court, and such~~ a person or respondent whose referral to the
22 state psychopathic hospital is contemplated. A judge may
23 request that a physician who examines a respondent as required
24 by section ten (10) of this Act complete such blanks in
25 duplicate in the course of the examination. A physician who
26 proposes to file an information under section two hundred
27 twenty-five point ten (225.10) of the Code shall obtain and
28 complete such blanks in duplicate and file them with the
29 information. The blanks shall be printed by the state and
30 a supply thereof shall be sent to the clerk of each district
31 court of the state. The state comptroller shall audit, allow,
32 and pay the cost of the blanks as other bills for public
33 printing are allowed and paid.

34 Sec. 53. Section two hundred twenty-six point nine (226.9),
35 Code 1975, is amended to read as follows:

1 226.9 CUSTODY OF PATIENT. The superintendent, upon the
2 receipt of a duly executed order of admission of a patient
3 into the hospital for the mentally ill, ~~accompanied by the~~
4 ~~physician's certificate provided by law~~ pursuant to section
5 thirteen (13) of this Act, shall take such patient into custody
6 and restrain him or her as provided by law and the rules of
7 the state director, without liability on the part of such
8 superintendent and all other officers of the hospital to
9 prosecution of any kind on account thereof, but no person
10 shall be detained in the hospital who is found by the
11 superintendent to be in good mental health.

12 Sec. 54. Section two hundred twenty-six point sixteen
13 (226.16), Code 1975, is amended to read as follows:

14 226.16 UNAUTHORIZED DEPARTURE AND RETAKING. It shall
15 be the duty of the superintendent and of all other officers
16 and employees of any of said hospitals, in case of the
17 unauthorized departure of any involuntarily hospitalized
18 patient, to exercise all due diligence to take into protective
19 custody and return said patient to the hospital. A
20 notification by the superintendent of such unauthorized
21 departure to any peace officer of the state or to any private
22 person shall be sufficient authority to such officer or person
23 to take and return such patient to the hospital.

24 Sec. 55. Section two hundred twenty-six point eighteen
25 (226.18), Code 1975, is amended to read as follows:

26 226.18 INVESTIGATION AS TO MENTAL HEALTH. The state
27 director may investigate the mental condition of any patient
28 and shall discharge any person, if, in his opinion, such
29 person is not mentally ill, or can be cared for after such
30 discharge without danger to others, and with benefit to the
31 patient; but in determining whether such patient shall be
32 discharged, the recommendation of the superintendent shall
33 be secured. If the state director orders the discharge of
34 an involuntarily hospitalized patient, the discharge shall
35 be by the procedure prescribed in section sixteen (16) of

1 this Act. The power to investigate the mental condition of
2 a patient is merely permissive, and does not repeal or alter
3 any statute respecting the discharge or commitment of patients
4 of the state hospitals.

5 Sec. 56. Section two hundred twenty-six point nineteen
6 (226.19), Code 1975, is amended to read as follows:

7 226.19 DISCHARGE--CERTIFICATE. All patients shall be
8 discharged, by the procedure prescribed in section three (3)
9 or section sixteen (16) of this Act, whichever is applicable,
10 immediately on regaining their good mental health ~~and the~~
11 ~~superintendent shall issue duplicate certificates of full~~
12 ~~recovery, one of which he shall deliver to the recovered~~
13 ~~patient, and the other of which he shall forward to the clerk~~
14 ~~of the district court of the county from which the patient~~
15 ~~was committed.~~

16 Sec. 57. Section two hundred twenty-six point twenty-three
17 (226.23), Code 1975, is amended to read as follows:

18 226.23 CONVALESCENT LEAVE OF PATIENTS. Upon the
19 recommendation of the superintendent, and the written consent
20 of the ~~commissioners of hospitalization of the county which~~
21 ~~is the legal settlement of a~~ district court which ordered
22 hospitalization in the case of an involuntary patient, the
23 state director may place on convalescent leave said patient
24 for a period not to exceed one year, under such conditions
25 as are prescribed by said state director.

26 Sec. 58. Section two hundred twenty-six point twenty-six
27 (226.26), Code 1975, is amended to read as follows:

28 226.26 DANGEROUS INCURABLES. The state director, on the
29 recommendation of the superintendent, and on the application
30 of the relatives or friends of a patient who is not cured
31 and who cannot be safely allowed to go at liberty, may release
32 such patient when fully satisfied that such relatives or
33 friends will provide and maintain all necessary supervision,
34 care, and restraint over such patient. If the patient being
35 so released was involuntarily hospitalized, the consent of

1 the district court which ordered the patient's hospitaliza-
2 tion shall be obtained in advance in substantially the manner
3 prescribed by section fourteen (14), subsection three (3)
4 of this Act.

5 Sec. 59. Section two hundred twenty-six point thirty-one
6 (226.31), Code 1975, is amended to read as follows:

7 226.31 EXAMINATION BY COURT--NOTICE. Before granting
8 the order authorized in section 226.30 the court or judge
9 shall investigate the allegations of the petition and before
10 proceeding to a hearing thereon shall require notice to be
11 served on the attorney who represented the patient in any
12 prior proceedings under sections six (6) through fifteen
13 (15) of this Act or the advocate appointed under section nine-
14 teen (19) of this Act, or in the case of a patient who entered
15 the hospital voluntarily, on any relative, friend, or guardian
16 of the person in question of the filing of said application.
17 On such hearing the court or judge shall appoint a guardian
18 ad litem for said person, if it deems such action necessary
19 to protect the rights of such person.

20 Sec. 60. Section two hundred twenty-six point thirty-two
21 (226.32), Code 1975, is amended to read as follows:

22 226.32 OVERCROWDED CONDITIONS. The state director shall
23 order the discharge or removal from the hospital of incurable
24 and harmless patients whenever it is necessary to make room
25 for recent cases~~7-and~~. If a patient who is to be so discharged
26 entered the hospital voluntarily, the state director shall
27 notify the auditor of the county interested at least ten days
28 in advance of the date of actual discharge.

29 Sec. 61. Section two hundred twenty-six point thirty-three
30 (226.33), Code 1975, is amended to read as follows:

31 226.33 NOTICE TO COMMISSIONERS. When a patient who was
32 hospitalized involuntarily and who has not fully recovered
33 is discharged from the hospital ~~without application therefor~~
34 by the state director under section two hundred twenty-six
35 point thirty-two (226.32) of the Code, notice of the order

1 shall at once be sent to the ~~commissioners-of-hospitalization~~
2 ~~of-the-county-of-which-the-patient-is-a-resident,-and-the~~
3 ~~commissioners-shall-forthwith-cause-the-patient-to-be-removed,~~
4 ~~and-shall-at-once-provide-for-his-care-in-the-county-as-in~~
5 ~~other-cases~~ court which ordered the patient's hospitalization,
6 in the manner prescribed by section fourteen (14), subsection
7 four (4) of this Act.

8 Sec. 62. Section two hundred twenty-seven point ten
9 (227.10), Code 1975, is amended to read as follows:

10 227.10 TRANSFERS FROM COUNTY OR PRIVATE INSTITUTIONS.
11 Patients who are suffering from acute mental illness, and
12 who are violent, and confined at public expense in any such
13 institution, may be removed by the state director to the
14 proper state hospital for the mentally ill when, on competent
15 medical testimony, the state director finds that said patient
16 can be better cared for and with better hope of recovery in
17 the state hospital. If the patient was hospitalized
18 involuntarily, the state director shall report the transfer
19 in the manner required of a chief medical officer under section
20 fifteen (15), subsection four (4) of this Act. Such removal
21 shall be at the expense of the proper county. Said expense
22 shall be recovered as provided in section 227.7.

23 Sec. 63. Section two hundred twenty-seven point eleven
24 (227.11), Code 1975, is amended to read as follows:

25 227.11 TRANSFERS FROM STATE HOSPITALS. A county chargeable
26 with the expense of a patient in a state hospital for the
27 mentally ill shall remove such patient to a county or private
28 institution for the mentally ill which has complied with the
29 aforesaid rules when the state director so orders on a finding
30 that said patient is suffering from chronic mental illness
31 or from senility and will receive equal benefit by being so
32 transferred. A county shall remove to its county home any
33 patient in a state hospital for the mentaly ill upon a finding
34 by a commission, consisting of the superintendent of the state
35 hospital in which the patient is confined and a physician

1 or physicians chosen by the board of supervisors of the county
2 of the patient's residence, said physician or physicians to
3 be paid by the county of the patient's residence, that such
4 patient can be properly cared for in the county home; and
5 the finding of the commission, after its approval by the board
6 of supervisors of the county of the patient's residence, shall
7 be complete authority for such removal. In no case shall
8 a patient be thus transferred except upon compliance with
9 section fourteen (14), subsection four (4) of this Act or
10 without the written consent of a relative, friend, or guardian
11 if such relative, friend, or guardian pays the expense of
12 the care of such patient in a state hospital.

13 Sec. 64. Section two hundred twenty-seven point fifteen
14 (227.15), Code 1975, is amended to read as follows:

15 227.15 AUTHORITY TO CONFINE IN HOSPITAL. No person shall
16 be involuntarily confined and restrained in any private
17 institution or hospital or county hospital or other general
18 hospital with psychiatric ward for the care or treatment of
19 the mentally ill, except by the procedure prescribed in
20 sections six (6) through fifteen (15) of this Act upon the
21 certificate of the commission of hospitalization of the county
22 in which such person resides, or of two reputable physicians,
23 at least one of whom shall be a bona fide resident of this
24 state, who shall certify that such person is a fit subject
25 for treatment and restraint in said institution or hospital,
26 which certificate shall be the authority of the owners and
27 officers of said hospital or institution for receiving and
28 confining said patient or person therein.

29 Sec. 65. Section two hundred twenty-nine point thirty-
30 one (229.31), Code 1975, is amended to read as follows:

31 229.31 COMMISSION OF INQUIRY. A sworn complaint, alleging
32 that a named person is not seriously mentally ~~+++~~ impaired
33 and is unjustly deprived of his liberty in any hospital in
34 the state, may be filed by any person with the clerk of the
35 district court of the county in which such named person is

1 so confined, or of the county in which such named person has
2 a legal settlement, and thereupon a judge of said court shall
3 appoint a commission of not more than three persons to inquire
4 into the truth of said allegations. One of said commissioners
5 shall be a physician and if additional commissioners are
6 appointed, one of such commissioners shall be a lawyer.

7 Sec. 66. Section two hundred twenty-nine point thirty-
8 two (229.32), Code 1975, is amended to read as follows:

9 229.32 DUTY OF COMMISSION. Said commission shall at once
10 proceed to the place where said person is confined and make
11 a thorough and discreet examination for the purpose of
12 determining the truth of said allegations and shall promptly
13 report its findings to said judge in writing. said report
14 shall be accompanied by a written statement of the case signed
15 by the ~~superintendent~~ chief medical officer of the hospital
16 in which the person is confined.

17 Sec. 67. Section two hundred twenty-nine point thirty-
18 three (229.33), Code 1975, is amended to read as follows:

19 229.33 HEARING. If, on such report and statement, and
20 the hearing of testimony if any is offered, the judge shall
21 find that such person is ~~in good mental health, he not~~
22 seriously mentally impaired, the judge shall order his the
23 person's discharge; if the contrary, he the judge shall so
24 state, and authorize his the continued detention of the person,
25 subject to all applicable requirements of this Act.

26 Sec. 68. Section two hundred twenty-nine point thirty-
27 four (229.34), Code 1975, is amended to read as follows:

28 229.34 FINDING AND ORDER FILED. The finding and order
29 of the judge, with the report and other papers, shall be filed
30 in the office of the clerk of the court where the complaint
31 was filed. Said clerk shall enter a memorandum thereof on
32 his the appropriate record, and forthwith notify the
33 superintendent chief medical officer of the hospital of the
34 finding and order of the judge, and the superintendent chief
35 medical officer shall carry out the order.

1 Sec. 69. Section two hundred twenty-nine point thirty-
2 seven (229.37), Code 1975, is amended to read as follows:
3 229.37 HABEAS CORPUS. All persons confined as seriously
4 mentally ~~+++~~ impaired shall be entitled to the benefit of
5 the writ of habeas corpus, and the question of serious mental
6 illness impairment shall be decided at the hearing. If the
7 judge shall decide that the person is seriously mentally ~~+++~~
8 impaired, such decision shall be no bar to the issuing of
9 the writ a second time, whenever it shall be alleged that
10 such person ~~has-been-restored-to-reason~~ is no longer seriously
11 mentally impaired.

12 Sec. 70. Section two hundred twenty-nine point thirty-
13 eight (229.38), Code 1975, is amended to read as follows:
14 229.38 CRUELTY OR OFFICIAL MISCONDUCT. If any person
15 having the care of a mentally ill person who has voluntarily
16 entered a hospital or other facility for treatment or care,
17 and-restraining-him or who is responsible for psychiatric
18 examination care, treatment and maintenance of any person
19 involuntarily hospitalized under sections six (6) through
20 fifteen (15) of this Act, whether in a hospital or elsewhere,
21 with ~~or-without~~ proper authority, shall treat ~~him~~ such patient
22 with unnecessary severity, harshness, or cruelty, or in any
23 way abuse ~~him~~ the patient, or if any person unlawfully detains
24 or deprives of liberty any mentally ill or allegedly mentally
25 ill person, or if any officer required by the provisions of
26 this chapter and chapters 226 ~~to-228~~-inclusive and two hundred
27 twenty-seven (227) of the Code, to perform any act shall
28 willfully refuse or neglect to perform the same, ~~he~~ the
29 offending person shall, unless otherwise provided, be fined
30 not to exceed five hundred dollars, or be imprisoned in the
31 county jail not to exceed three months, and pay the costs
32 of prosecution, or be both fined and imprisoned at the discre-
33 tion of the court.

34 Sec. 71. Section two hundred twenty-nine point forty-one
35 (229.41), Code 1975, is amended by striking the first

1 unnumbered paragraph.

2 Sec. 72. Section two hundred twenty-nine point forty-one
3 (229.41), unnumbered paragraph two (2), Code 1975, is amended
4 to read as follows:

5 Persons making application ~~directly-to-the-superintendent~~
6 and pursuant to section two (2) of this Act on their own
7 behalf or on behalf of another person who is under eighteen
8 years of age, if the person whose admission is sought is
9 received for observation and treatment on such application,
10 shall be required to pay the costs of hospitalization at rates
11 established by the state director, which costs may be collected
12 weekly in advance and shall be payable at the business office
13 of the hospital. Such collections shall be remitted to the
14 state comptroller monthly to be credited to the general fund
15 of the state.

16 Sec. 73. Section two hundred twenty-nine point forty-two
17 (229.42), unnumbered paragraph one (1), Code 1975, is amended
18 to read as follows:

19 If a person wishing to make application for voluntary
20 admission to a mental hospital is unable to pay the costs
21 of hospitalization or those responsible for such person are
22 unable to pay such costs, application for authorization of
23 voluntary admission must be made to any clerk of the district
24 court before application for admission is made to the hospital.
25 After determining the county of legal settlement the said
26 clerk shall, on forms provided by the state director, authorize
27 such person's admission to a mental health hospital as a
28 voluntary case. The clerk shall at once provide a duplicate
29 copy of the form to the county board of supervisors. The
30 costs of the hospitalization shall be paid by the county of
31 legal settlement to the state comptroller and credited to
32 the general fund of the state, providing the mental health
33 hospital rendering the services has certified to the county
34 auditor of the responsible county the amount chargeable thereto
35 and has sent a duplicate statement of such charges to the

1 state comptroller.

2 Sec. 74. Section two hundred twenty-nine point forty-three
3 (229.43), Code 1975, is amended to read as follows:

4 229.43 NONRESIDENTS OR NO-SETTLEMENT PATIENTS. The state
5 director shall have the power to place patients of mental
6 health institutes who have no county of legal settlement;
7 who are nonresidents; or whose legal settlement is unknown,
8 on convalescent leave to a private sponsor or in any health
9 care facility licensed under chapter 135C, when in the opinion
10 of the state director said placement is in the best interests
11 of the patient and the state of Iowa. If the patient was
12 involuntarily hospitalized the district court which
13 hospitalized the patient must be informed when the patient
14 is placed on convalescent leave, as required by section fifteen
15 (15), subsection four (4) of this Act.

16 Sec. 75. Section two hundred thirty point two (230.2),
17 unnumbered paragraph one (1), Code 1975, is amended to read
18 as follows:

19 The ~~commission-of-hospitalization~~ district court shall,
20 when a person is ~~found-to-be-mentally-ill~~ ordered placed in
21 a hospital for psychiatric examination and appropriate
22 treatment, or as soon thereafter as it obtains the proper
23 information, determine and enter of record whether the legal
24 settlement of said person is:

25 Sec. 76. Section two hundred thirty point three (230.3),
26 Code 1975, is amended to read as follows:

27 230.3 CERTIFICATION OF SETTLEMENT. If such legal
28 settlement is found to be in another county of this state,
29 the ~~commission~~ court shall, as soon as said determination
30 is made, certify such finding to the superintendent of the
31 hospital to which said patient is admitted or committed, and
32 thereupon said superintendent shall charge the expenses already
33 incurred and unadjusted, and all future expenses of such
34 patient, to the county so certified until said settlement
35 shall be otherwise determined as hereinafter provided.

1 Sec. 77. Section two hundred thirty point four (230.4),
2 Code 1975, is amended to read as follows:

3 230.4 CERTIFICATION TO DEBTOR COUNTY. Said finding of
4 legal settlement shall also be certified by the ~~commission~~
5 court to the county auditor of the county of such legal
6 settlement. Such auditor shall lay such notification before
7 the board of supervisors of his county, and it shall be
8 conclusively presumed that such person has a legal settle-
9 ment in said notified county unless said county shall, within
10 ~~six-months~~ sixty days give notice, in writing ~~filed-with-the~~
11 ~~commission-of-hospitalization-giving-said-notice,-dispute~~
12 such to the court that the county disputes the finding of
13 legal settlement.

14 Sec. 78. Section two hundred thirty point five (230.5),
15 Code 1975, is amended to read as follows:

16 230.5 NONRESIDENTS. If such legal settlement is found
17 by the ~~commission~~ court to be in some foreign state or country,
18 or unknown, it shall, ~~without-entering-an-order-of-admission~~
19 ~~or-commitment-to-the-state-hospital,~~ immediately notify the
20 state director of such finding and furnish the state director
21 with a copy of the evidence taken on the question of legal
22 settlement, and ~~hold-said-patient-for-investigation-by-said~~
23 ~~state-director~~ shall in its order issued pursuant to section
24 thirteen (13) of this Act direct that the patient be
25 hospitalized at the appropriate state hospital for the mentally
26 ill.

27 Sec. 79. Section two hundred thirty point six (230.6),
28 subsections one (1) and two (2), Code 1975, are amended to
29 read as follows:

30 1. If the state director finds that the decision of the
31 ~~commission-of-hospitalization~~ court as to legal settlement
32 is correct, the state director shall cause said patient either
33 to be transferred to a state hospital for the mentally ill
34 ~~and-there-maintained~~ at the expense of the state, or to be
35 transferred, with approval of the court as required by this

1 Act, to the place of foreign settlement.

2 2. If the state director finds that the decision of the
3 ~~commission-of-hospitalization~~ court is not correct, the state
4 director shall order said patient ~~transferred to be maintained~~
5 at a state hospital for the mentally ill and there-maintained
6 at the expense of the county-of-legal-settlement-in-this
7 state, and shall at once inform the court of such finding
8 and request that the court's order be modified accordingly.

9 Sec. 80. Section two hundred thirty point seven (230.7),
10 Code 1975, is amended by striking the section and inserting
11 in lieu thereof the following:

12 230.7 TRANSFER OF NONRESIDENTS. Upon determining that
13 a patient in a state hospital who has been involuntarily
14 hospitalized under this Act or admitted voluntarily at public
15 expense was not a resident of this state at the time of the
16 involuntary hospitalization or admission, the state director
17 may cause that patient to be conveyed to his or her place
18 of residence. However, a transfer under this section may
19 be made only if the patient's condition so permits and other
20 reasons do not render the transfer inadvisable. If the patient
21 was involuntarily hospitalized, prior approval of the transfer
22 must be obtained from the court which ordered the patient
23 hospitalized.

24 Sec. 81. Section three hundred twenty-one point one hundred
25 seventy-seven (321.177), subsection five (5), Code 1975, is
26 amended to read as follows:

27 5. To any person, as an operator or chauffeur, who has
28 previously been adjudged to be ~~afflicted-with-or-suffering~~
29 ~~from-any-mental-disability-or-disease~~ incompetent by reason
30 of mental illness and who has not at the time of application
31 been restored to competency by the methods provided by law.
32 ~~Provided, however, that the department may issue such license~~
33 ~~when said mentally ill person is placed on parole or~~
34 ~~convalescent leave, when advised in writing that the medical~~
35 ~~staff and superintendent of the institution in which the~~

1 ~~person-has-been-hospitalized-recommend-the-issuance-of-said~~
2 ~~license-~~

3 Sec. 82. Sections two hundred twenty-four point five
4 (224.5), two hundred twenty-five point thirty-one (225.31),
5 two hundred twenty-five point thirty-six (225.36), two hundred
6 twenty-five point thirty-seven (225.37), two hundred twenty-
7 five point thirty-eight (225.38), two hundred twenty-five
8 point thirty-nine (225.39), two hundred twenty-five point
9 forty (225.40), two hundred twenty-five point forty-one
10 (225.41), two hundred twenty-five point forty-two (225.42),
11 two hundred twenty-six point twenty (226.20), two hundred
12 twenty-six point twenty-one (226.21), two hundred twenty-six
13 point twenty-four (226.24), two hundred twenty-six point
14 twenty-five (226.25), chapter two hundred twenty-eight (228),
15 and sections two hundred twenty-nine point thirty-nine (229.39)
16 and two hundred twenty-nine point forty (229.40), Code 1975,
17 are repealed.

18 EXPLANATION

19 This bill is a major revision of Iowa's laws governing
20 the hospitalization of persons for treatment of mental illness,
21 and in particular involuntary hospitalization (or commitment).
22 The present county commission of hospitalization is abolished,
23 and the responsibility for deciding upon allegations that
24 an individual should be hospitalized for treatment of mental
25 illness, against his or her wishes, is transferred to the
26 district court. A procedure which affords protection against
27 arbitrary or ill-considered action in such cases is prescribed,
28 and no person may be deprived of liberty by reason of mental
29 illness without this procedure having been followed unless
30 the court or a magistrate finds that the person involved pre-
31 sents a threat of physical harm to himself or herself or
32 others. Even then, the detention of the person may not con-
33 tinue beyond the time required to follow the prescribed legal
34 procedure unless that procedure confirms the need for the
35 person's hospitalization.

1 The bill introduces to Iowa the concept of court-ordered
2 treatment on an out-patient basis. This is intended to permit
3 needed treatment to be provided with less disruption of the
4 patient's life.

5 Provision is made for appointment of special judicial
6 officers to handle hospitalization cases in counties where
7 district judges may not be sufficiently accessible to handle
8 these matters expeditiously.

9 The bill includes a number of provisions addressed to the
10 rights of persons hospitalized for treatment of mental ill-
11 ness. It also provides that such hospitalization does not
12 automatically cause the person to be regarded as legally in-
13 competent or under any disabilities, such as ineligibility
14 to obtain or keep a drivers license. The issue of incompe-
15 tence may be raised at the time a petition is filed for hos-
16 pitalization of a person, but it is not mandatory to do so.

17 Much of the bill's total content consists of amendments
18 to existing laws, to bring them into conformity with the sub-
19 stantive provisions of the bill.

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HOUSE AMENDMENT TO SENATE FILE 499

S-3884

1 Amend Senate File 499, as amended and passed
2 by the Senate as follows:
3 1. Page 11, line 29, by striking the word "shall"
4 and inserting in lieu thereof the word "may".
5 2. Page 12, line 1, by striking the word "shall"
6 and inserting in lieu thereof the word "may".
7 3. Page 23, line 11, by inserting after the word
8 "physician" the words "or attorney".
9 4. Page 23, line 18, by striking the word "
10 Information" and inserting in lieu thereof the words
11 ", however information".
12 5. Page 23, line 20, by striking the word
13 "identity." and inserting in lieu thereof the
14 following: "identity; or
15 4. The person who is hospitalized or that person's
16 guardian, if the person is a minor or is not legally
17 competent to do so, signs an informal consent to
18 release information. Each signed consent shall
19 designate specifically the person or agency to whom
20 the information is to be sent, and the information
21 may be sent only to that person or agency."

S-3884 FILED
MAY 22, 1975

RECEIVED FROM THE HOUSE
Senate concurred 5/23 (1557)

H-3887

1 Amend Senate File 499, as amended and passed
2 by the Senate as follows:
3 Page 12, line 1, by striking the word "shall"
4 and inserting in lieu thereof the word "may".

H-3887 FILED, ADOPTED (1832)
MAY 20, 1975

BY HIGGINS of Scott

S-3767

1 Amend Senate File 499 as follows:
2 Page 49, after line 17 by inserting the following:
3 "Sec. ____ . This Act shall be effective January 1,
4 1976."

S-3767 FILED - *Adopted 5/8 (1309)* BY JOHN S. MURRAY
MAY 8, 1975

S-3768

1 Amend Senate File 499 as follows:
2 Page 15, by inserting after line 17 the following:
3 "Any such appeal to the supreme court shall be by
4 the discretionary review prescribed by subsections
5 two (2) through nine (9) of section six hundred
6 thirty-one point sixteen (631.16) of the Code."

S-3768 FILED - *Lost 5/8 (1308)* BY RICHARD R. RAMSEY
MAY 8, 1975 JOHN S. MURRAY

S-3772

1 Amend Senate File 499, page 25, by inserting after
2 line 23 the following new subsection, and renumbering
3 the succeeding subsection accordingly:
4 "4. Upon petitioning the court for a finding that
5 a respondent is incompetent by reason of mental
6 illness, the applicant may also request the court to
7 appoint a conservator for the respondent. The court
8 may appoint a temporary conservator as provided by
9 section six hundred thirty-three point five hundred
10 seventy-three (633.573) of the Code, or may defer a
11 decision on the appointment of a conservator until
12 a report is received under section thirteen (13) of
13 this Act if the respondent is hospitalized for
14 evaluation pursuant to that section."

S-3772 FILED - *Adopted 5/8 (1309)* BY RICHARD R. RAMSEY
MAY 8, 1975 JOHN S. MURRAY

SENATE FILE 499

S-3774

1 Amend Senate File 499 as follows:
2 1. Page 13, line 6, by striking the single letter A
3 "y" and inserting in lieu thereof the word "by".
4 2. Page 13, line 16, by striking the word B
5 "hospitalized" and inserting in lieu thereof the word
6 "hospitalized".
7 3. Page 28, line 3, by striking the word and
8 figures "twenty-three (23)" and inserting in lieu
9 thereof the word and figures "twenty-seven (27)".

S-3774 FILED A. *Withdrawn* BY JOHN S. MURRAY
MAY 8, 1975 B. *Adopted 5/8 (1308)*

S-3773

- 1 Amend Senate File 499 as follows:
2 1. Page 4, line 30, by inserting after the word
3 "open" the words "unless the period of time is A
4 extended by order of a district court judge for
5 good cause shown".
6 2. Page 10, lines 14 through 16 by striking the
7 sentence "Such discovery as is permitted under the
8 Iowa rules of civil procedure shall be available to B
9 the respondent." and inserting in lieu thereof the
10 sentence: "Upon application to the district court
11 and good cause shown therefore, the court shall
12 order such discovery as is necessary and within
13 a time limit stated in the court's order."
14 3. Page 13, line 6, by striking the letter "y" A
15 and insert in lieu thereof the word "by".
16 4. Page 15, line 1, by striking "pro- ceedings"
17 and inserting in lieu thereof the word "proceedings".

S-3773 FILED *A. Adopted,* BY RICHARD R. RAMSEY
MAY 8, 1975 *B. Rec - 5/8 (1307)*

H-3878

- 1 Amend Senate File 499, as amended and passed
2 by the Senate as follows:
3 Page 11, line 29, by striking the word "shall"
4 and inserting in lieu thereof the word "may".

H-3878 FILED *Adopted 5/20 (1832)* BY HIGGINS of Scott
May 19, 1975

Senate File 499

H-3885

- 1 Amend Senate File 499 as follows:
2 1. Page 23, line 11, by inserting after the word
3 "physician" the words "or attorney".
4 2. Page 23, line 18, by striking the word "
5 Information" and inserting in lieu thereof the words
6 ", however information".
7 3. Page 23, line 20, by striking the word
8 "identity." and inserting in lieu thereof the
9 following: "identity; or
10 4. The person who is hospitalized or that person's
11 guardian, if the person is a minor or is not legally
12 competent to do so, signs an informal consent to
13 release information. Each signed consent shall
14 designate specifically the person or agency to whom
15 the information is to be sent, and the information
16 may be sent only to that person or agency."

H-3885 FILED *Adopted 5/20 (1832)* BY NEWHARD of Jones
MAY 19, 1975

AN ACT

RELATING TO HOSPITALIZATION OF THE MENTALLY ILL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. DEFINITIONS. As used in this Act, unless the context clearly requires otherwise:

1. "Mental illness" means every type of mental disease or mental disorder, except that it does not refer to mental retardation as defined in section two hundred twenty-two point two (222.2), subsection five (5) of the Code.

2. "Seriously mentally impaired" or "serious mental impairment" describes the condition of a person who is afflicted with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to his or her hospitalization or treatment, and who:

a. Is likely to physically injure himself or herself or others if allowed to remain at liberty without treatment;

or

b. Is likely to inflict serious emotional injury on members of his or her family or others who lack reasonable opportunity to avoid contact with the afflicted person if the afflicted person is allowed to remain at liberty without treatment.

3. "Serious emotional injury" is an injury which does not necessarily exhibit any physical characteristics, but which can be recognized and diagnosed by a licensed physician or other qualified mental health professional and which can be causally connected with the act or omission of a person who is, or is alleged to be, mentally ill.

4. "Respondent" means any person against whom an application has been filed under section six (6) of this Act, but who has not been finally ordered committed for full-time custody, care and treatment in a hospital.

5. "Patient" means a person who has been hospitalized or ordered hospitalized to receive treatment pursuant to section fourteen (14) of this Act.

6. "Licensed physician" means an individual licensed under the provisions of chapter one hundred forty-eight (148) of the Code to practice medicine.

7. "Qualified mental health professional" means an individual experienced in the study and treatment of mental disorders in the capacity of:

a. A psychologist certified under chapter one hundred fifty-four B (154B) of the Code; or

b. A registered nurse licensed under chapter one hundred fifty-two (152) of the Code; or

c. A social worker who holds a masters degree in social work awarded by an accredited college or university.

8. "Public hospital" means:

a. A state mental health institute established by chapter two hundred twenty-six (226) of the Code; or

b. The state psychopathic hospital established by chapter two hundred twenty-five (225) of the Code; or

c. Any other publicly supported hospital or institution, or part thereof, which is equipped and staffed to provide inpatient care to the mentally ill, except that this definition shall not be applicable to the Iowa security medical facility established by chapter two hundred twenty-three (223) of the Code.

9. "Private hospital" means any hospital or institution not directly supported by public funds, or a part thereof, which is equipped and staffed to provide inpatient care to the mentally ill.

10. "Hospital" means either a public hospital or a private hospital.

11. "Chief medical officer" means the medical director in charge of any public hospital, or any private hospital, or that individual's physician-designee. Nothing in this

Act shall negate the authority otherwise reposed by law in the respective superintendents of each of the state hospitals for the mentally ill, established by chapter two hundred twenty-six (226) of the Code, to make decisions regarding the appropriateness of admissions or discharges of patients of that hospital, however it is the intent of this Act that if the superintendent is not a licensed physician he shall be guided in these decisions by the chief medical officer of that hospital.

12. "Clerk" means the clerk of the district court.

Sec. 2. NEW SECTION. APPLICATION FOR VOLUNTARY ADMISSION-AUTHORITY TO RECEIVE VOLUNTARY PATIENTS.

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

2. Upon receiving an application for admission as a voluntary patient, made pursuant to subsection one (1) of this section:

a. The chief medical officer of a public hospital shall receive and may admit the person whose admission is sought, subject in cases other than medical emergencies to availability of suitable accommodations and to the provisions of sections two hundred twenty-nine point forty-one (229.41) and two hundred twenty-nine point forty-two (229.42) of the Code.

b. The chief medical officer of a private hospital may receive and may admit the person whose admission is sought.

Sec. 3. NEW SECTION. DISCHARGE OF VOLUNTARY PATIENTS. Any voluntary patient who has recovered, or whose hospitalization the chief medical officer of the hospital determines is no longer advisable, shall be discharged. Any voluntary patient may be discharged if to do so would in the judgment of the chief medical officer contribute to the most effective use of the hospital in the care and treatment of that patient and of other mentally ill persons.

Sec. 4. NEW SECTION. RIGHT TO RELEASE ON APPLICATION. A voluntary patient who requests his or her release or whose release is requested, in writing, by his or her legal guardian, parent, spouse or adult next-of-kin shall be released from the hospital forthwith, except that:

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

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

3. If the chief medical officer of the hospital, not later than the end of the next secular day on which the office of the clerk of the district court for the county in which the hospital is located is open and which follows the submission of the written request for release of the patient, files with that clerk a certification that in the chief medical officer's opinion the patient is seriously mentally impaired, the release may be postponed for the period of time the court determines is necessary to permit commencement of judicial procedure for involuntary hospitalization. That period of time may

not exceed five days, exclusive of days on which the clerk's office is not open unless the period of time is extended by order of a district court judge for good cause shown. Until disposition of the application for involuntary hospitalization of the patient, if one is timely filed, the chief medical officer may detain the patient in the hospital and may provide treatment which is necessary to preserve his or her life, or to appropriately control behavior by the patient which is likely to result in physical injury to himself or herself or to others if allowed to continue, but may not otherwise provide treatment to the patient without the patient's consent.

Sec. 5. NEW SECTION. DEPARTURE WITHOUT NOTICE. If a voluntary patient departs from the hospital without notice, and in the opinion of the chief medical officer the patient is seriously mentally impaired, the chief medical officer may file an application for involuntary hospitalization of the departed voluntary patient, and request that an order for immediate custody be entered by the court pursuant to section eleven (11) of this Act.

Sec. 6. NEW SECTION. APPLICATION FOR ORDER OF INVOLUNTARY HOSPITALIZATION. Proceedings for the involuntary hospitalization of an individual may be commenced by any interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located, or which is the respondent's place of residence. The clerk, or his or her designee, shall assist the applicant in completing the application. The application shall:

1. State the applicant's belief that the respondent is seriously mentally impaired.
2. State any other pertinent facts.
3. Be accompanied by:
 - a. A written statement of a licensed physician in support of the application; or
 - b. One or more supporting affidavits otherwise corroborating the application; or

c. Corroborative information obtained and reduced to writing by the clerk or his or her designee, but only when circumstances make it infeasible to comply with, or when the clerk considers it appropriate to supplement the information supplied pursuant to, either paragraph a or paragraph b of this subsection.

Sec. 7. NEW SECTION. SERVICE OF NOTICE UPON RESPONDENT. Upon the filing of an application for involuntary hospitalization, the clerk shall docket the case and immediately notify a district court judge who shall review the application and accompanying documentation. If the application is adequate as to form, the judge may set a time and place for a hearing on the application, if feasible, and shall direct the clerk to send copies of the application and supporting documentation, together with a notice informing the respondent of the procedures required by this Act, to the sheriff or his or her deputy for immediate service upon the respondent. If the respondent is taken into custody under section eleven (11) of this Act, service of the application, documentation and notice upon the respondent shall be made at the time he or she is taken into custody.

Sec. 8. NEW SECTION. PROCEDURE AFTER APPLICATION IS FILED. As soon as practicable after the filing of an application for involuntary hospitalization, the court shall:

1. Determine whether the respondent has an attorney who is able and willing to represent him or her in the hospitalization proceeding, and if not, whether the respondent is financially able to employ an attorney and capable of meaningfully assisting in selecting one. In accordance with those determinations, the court shall if necessary allow the respondent to select, or shall assign to him or her, an attorney. If the respondent is financially unable to pay an attorney, the attorney shall be compensated in substantially the manner provided by sections seven hundred seventy-five

point five (775.5) and seven hundred seventy-five point six (775.6) of the Code, except that if the county has a public defender the court may designate the public defender or an attorney on his or her staff to act as the respondent's attorney.

2. Cause copies of the application and supporting documentation to be sent to the county attorney or his or her attorney-designate for review.

3. Issue a written order which shall:

a. If not previously done, set a time and place for a hospitalization hearing, which shall be at the earliest practicable time; and

b. Order an examination of the respondent, prior to the hearing, by one or more licensed physicians who shall submit a written report on the examination to the court as required by section ten (10) of this Act.

Sec. 9. NEW SECTION. RESPONDENT'S ATTORNEY INFORMED.

The court shall direct the clerk to furnish at once to the respondent's attorney copies of the application for involuntary hospitalization of the respondent and the supporting documentation, and of the court's order issued pursuant to section eight (8), subsection three (3) of this Act. If the respondent is taken into custody under section eleven (11) of this Act, the attorney shall also be advised of that fact. The respondent's attorney shall represent the respondent at all stages of the proceedings, and shall attend the hospitalization hearing.

Sec. 10. NEW SECTION. PHYSICIANS' EXAMINATION--REPORT.

1. An examination of the respondent shall be conducted by one or more licensed physicians, as required by the court's order, within a reasonable time. If the respondent is taken into custody under section eleven (11) of this Act, the examination shall be conducted within twenty-four hours. If the respondent so desires, he or she shall be entitled to a separate examination by a licensed physician of his or

her own choice. The reasonable cost of such separate examination shall, if the respondent lacks sufficient funds to pay the cost, be paid from county funds upon order of the court.

Any licensed physician conducting an examination pursuant to this section may consult with or request the participation in the examination of any qualified mental health professional, and may include with or attach to the written report of the examination any findings or observations by any qualified mental health professional who has been so consulted or has so participated in the examination.

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

a. Cause the report or reports to be shown to the judge who issued the order; and

b. Cause the respondent's attorney to receive a copy of the report of the court-designated physician or physicians.

3. If the report of the court-designated physician or physicians is to the effect that the individual is not seriously mentally impaired, the court may without taking further action terminate the proceeding and dismiss the application on its own motion and without notice.

4. If the report of the court-designated physician or physicians is to the effect that the respondent is seriously mentally impaired, the court shall schedule a hearing on the application as soon as possible. The hearing shall be held not more than forty-eight hours after the report is filed, excluding Saturdays, Sundays and holidays, unless an extension for good cause is requested by the respondent, or as soon thereafter as possible if the court considers that sufficient grounds exists for delaying the hearing.

Sec. 11. NEW SECTION. JUDGE MAY ORDER IMMEDIATE CUSTODY. If the applicant requests that the respondent be taken into

immediate custody and the judge, upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent is seriously mentally impaired and is likely to injure himself or herself or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody by the sheriff or his or her deputy and be detained until the hospitalization hearing, which shall be held no more than five days after the date of the order. The judge may order the respondent detained for that period of time, and no longer, in accordance with subsection one (1) of this section if possible, and if not then in accordance with subsection two (2) of this section or, only if neither of these alternatives are available, in accordance with subsection three (3) of this section. Detention may be:

1. In the custody of a relative, friend or other suitable person who is willing to accept responsibility for supervision of the respondent, and the respondent may be placed under such reasonable restrictions as the judge may order including, but not limited to, restrictions on or a prohibition of any expenditure, encumbrance or disposition of the respondent's funds or property; or

2. In a suitable hospital the chief medical officer of which shall be informed of the reasons why immediate custody has been ordered and may provide treatment which is necessary to preserve the respondent's life, or to appropriately control behavior by the respondent which is likely to result in physical injury to himself or herself or to others if allowed to continue, but may not otherwise provide treatment to the respondent without the respondent's consent; or

3. In a public or private facility in the community which is suitably equipped and staffed for the purpose, provided that detention in a jail or other facility intended for confinement of those accused or convicted of crime may not be ordered except in cases of actual emergency when no other

secure facility is accessible and then only for a period of not more than twenty-four hours and under close supervision.

Sec. 12. NEW SECTION. HEARING PROCEDURE. At the hospitalization hearing, evidence in support of the contentions made in the application shall be presented by the county attorney. During the hearing the applicant and the respondent shall be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of any other interested person. The respondent has the right to be present at the hearing. If the respondent exercises that right and has been medicated within twelve hours, or such longer period of time as the court may designate, prior to the beginning of the hearing or an adjourned session thereof, the judge shall be informed of that fact and of the probable effects of the medication upon convening of the hearing. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding. The respondent's welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. Such discovery as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant. If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has not been sustained by clear and convincing evidence, it shall deny the application and terminate the proceeding.

Sec. 13. NEW SECTION. HOSPITALIZATION FOR EVALUATION. If upon completion of the hearing the court finds that the

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

Sec. 14. NEW SECTION. CHIEF MEDICAL OFFICER'S REPORT. The chief medical officer's report to the court on the psychiatric evaluation of the respondent shall be made not later than the expiration of the time specified in section thirteen (13) of this Act. At least two copies of the report shall be filed with the clerk, who shall dispose of them in the manner prescribed by section ten (10), subsection two (2) of this Act. The report shall state one of the four following alternative findings:

1. That the respondent does not, as of the date of the report, require further treatment for serious mental impairment. If the report so states, the court shall order the respondent's immediate release from involuntary hospitalization and terminate the proceedings.

2. That the respondent is seriously mentally impaired and in need of full-time custody, care and treatment in a

hospital, and is considered likely to benefit from treatment. If the report so states, the court may order the respondent's continued hospitalization for appropriate treatment.

3. That the respondent is seriously mentally impaired and in need of treatment, but does not require full-time hospitalization. If the report so states it shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court may enter an order directing the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment as directed by the court's order, he or she shall be taken into custody and treated as a patient requiring full-time custody, care and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated he or she is willing to submit to treatment on another basis as ordered by the court.

4. The respondent is seriously mentally impaired and in need of full-time custody and care, but is unlikely to benefit from further treatment in a hospital. If the report so states, the chief medical officer shall recommend an alternative placement for the respondent and the court may order the respondent's transfer to the recommended placement. If the court or the respondent's attorney consider the placement inappropriate, an alternative placement may be arranged upon consultation with the chief medical officer and approval of the court.

Sec. 15. NEW SECTION. PERIODIC REPORTS REQUIRED.

1. Not more than thirty days after entry of an order for continued hospitalization of a patient under subsection two (2) of section fourteen (14) of this Act, and thereafter at successive intervals of not more than sixty days continuing so long as involuntary hospitalization of the patient continues, the chief medical officer of the hospital shall

report to the court which entered the order. The report shall be submitted in the manner required by section fourteen (14) of this Act, shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will be required to remain at the hospital. The chief medical officer may at any time report to the court a finding as stated in subsection four (4) of section fourteen (14) of this Act, and the court shall act thereon as required by that section.

2. Not more than sixty days after the entry of a court order for treatment of a patient under subsection three (3) of section fourteen (14) of this Act, and thereafter at successive intervals as ordered by the court but not to exceed ninety days so long as that court order remains in effect, the medical director of the facility treating the patient shall report to the court which entered the order. The report shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will require treatment by the facility. If at any time the patient without good cause fails or refuses to submit to treatment as ordered by the court, the medical director shall at once so notify the court, which shall order the patient hospitalized as provided by section fourteen (14), subsection three (3) of this Act unless the court finds that the failure or refusal was with good cause and that the patient is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If the medical director at any time reports to the court that in his opinion the patient requires full-time custody, care and treatment in a hospital, the court may order the patient's involuntary hospitalization for appropriate treatment upon consultation with the chief medical officer of the hospital in which the patient is to be hospitalized.

3. When a patient has been placed in a facility other than a hospital pursuant to section fourteen (14), subsection four (4) of this Act, a report on the patient's condition and prognosis shall be made to the court which so placed the patient, at least once every six months. The report shall be submitted within fifteen days following the inspection, required by section two hundred twenty-seven point two (227.2) of the Code, of the facility in which the patient has been placed.

4. When in the opinion of the chief medical officer the best interest of a patient would be served by a convalescent or limited leave or by transfer to a different hospital for continued full-time custody, care and treatment, the chief medical officer may authorize the leave or arrange and complete the transfer but shall promptly report the leave or transfer to the court. The patient's attorney or advocate may request a hearing on a transfer. Nothing in this section shall be construed to add to or restrict the authority otherwise provided by law for transfer of patients or residents among various state institutions administered by the department of social services.

5. Upon receipt of any report required or authorized by this section the court shall furnish a copy to the patient's attorney, or alternatively to the advocate appointed as required by section nineteen (19) of this Act. The court shall examine the report and take the action thereon which it deems appropriate. Should the court fail to receive any report required by this section or section fourteen (14) of this Act at the time the report is due, the court shall investigate the reason for the failure to report and take whatever action may be necessary in the matter.

Sec. 16. NEW SECTION. DISCHARGE AND TERMINATION OF PROCEEDING. When in the opinion of the chief medical officer a patient who is hospitalized under subsection two (2), or is receiving treatment under subsection three (3), or is in

full-time care and custody under subsection four (4) of section fourteen (14) of this Act no longer requires treatment or care for serious mental impairment, the chief medical officer shall tentatively discharge the patient and immediately report that fact to the court which ordered the patient's hospitalization or care and custody. The court shall thereupon issue an order confirming the patient's discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by certified mail to the hospital and the patient.

Sec. 17. NEW SECTION. STATUS OF RESPONDENT DURING APPEAL. Where a respondent appeals to the supreme court from a finding that the contention the respondent is seriously mentally impaired has been sustained, and the respondent was previously ordered taken into immediate custody under section eleven (11) of this Act or has been hospitalized for psychiatric evaluation and appropriate treatment under section thirteen (13) of this Act before the court is informed of intent to appeal its finding, the respondent shall remain in custody as previously ordered by the court, the time limit stated in section eleven (11) notwithstanding, or shall remain in the hospital subject to compliance by the hospital with sections thirteen (13) through sixteen (16) of this Act, as the case may be, unless the supreme court orders otherwise.

Sec. 18. NEW SECTION. STATUS OF RESPONDENT IF HOSPITALIZATION IS DELAYED. When the court directs that a respondent who was previously ordered taken into immediate custody under section eleven (11) of this Act be placed in a hospital for psychiatric evaluation and appropriate treatment under section thirteen (13) of this Act, and no suitable hospital can immediately admit the respondent, the respondent shall remain in custody as previously ordered by the court, the time limit stated in section eleven (11) notwithstanding, until a suitable hospital can admit the respondent. The court shall take

appropriate steps to expedite the admission of the respondent to a suitable hospital at the earliest feasible time.

Sec. 19. NEW SECTION. ADVOCATE APPOINTED. The district court in each county shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of the mentally ill, and who is not an officer or employee of the department of social services nor of any agency or facility providing care or treatment to the mentally ill, to act as advocate representing the interests of all patients involuntarily hospitalized by that court, in any matter relating to the patients' hospitalization or treatment under sections fourteen (14) or fifteen (15) of this Act. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections six (6) through thirteen (13) of this Act, reports to the court that his or her services are no longer required and requests the court's approval to withdraw as counsel for that patient. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal. The advocate's duties shall include reviewing each report submitted pursuant to sections fourteen (14) and fifteen (15) of this Act concerning any patient whose interests, as a patient, the advocate is required to represent under this section, and if the advocate is not an attorney, advising the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests. The court shall from time to time prescribe reasonable compensation for the services of the advocate. Such compensation shall be based upon reports filed by the advocate at such times and in such forms as the court shall prescribe. The report shall briefly state what the advocate has done with respect to each patient and the amount of time spent. The advocate's compensation shall be paid on order of the court from the county mental health and

institutions fund of the county in which the court is located.

Sec. 20. NEW SECTION. RESPONDENTS CHARGED WITH OR CONVICTED OF CRIME.

1. If the court orders a respondent placed in a hospital for psychiatric evaluation and appropriate treatment at a time when the respondent has been convicted of a public offense, or when there is pending against the respondent an unresolved formal charge of a public offense, and the respondent's liberty has therefore been restricted in any manner, the finding of fact required by section thirteen (13) of this Act shall clearly so inform the chief medical officer of the hospital where the respondent is placed.

2. When a proceeding under section six (6) and succeeding sections of this Act arises under sections seven hundred eighty-three point five (783.5) or seven hundred eighty-nine point eight (789.8) of the Code, and the respondent through his attorney waives the hearing otherwise required by section twelve (12) of this Act, the court may immediately order the respondent placed in a hospital for a complete psychiatric evaluation and appropriate treatment pursuant to section thirteen (13) of this Act. In such cases, the court may in its discretion order or waive the physician's examination otherwise required under section ten (10) of this Act.

Sec. 21. NEW SECTION. JUDICIAL HOSPITALIZATION REFEREE.

1. As soon as practicable after the adoption of this Act the judges in each judicial district shall meet and shall determine, individually for each county in the district, whether it appears that one or more district judges will be sufficiently accessible in that county to make it feasible for them to perform at all times the duties prescribed by sections seven (7) through twenty (20) of this Act and by chapter two hundred twenty-four (224) of the Code. If the judges find that accessibility of district court judges in any county is not sufficient for this purpose, the chief judge of the district shall appoint in that county a judicial

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

2. The judicial hospitalization referee shall be an attorney, licensed to practice law in this state, who shall be chosen with consideration to any training, experience, interest, or combination of those factors, which are pertinent to the duties of the office. The referee shall hold office at the pleasure of and receive compensation at a rate fixed by the chief judge of the district. If the referee expects to be absent from the county for any significant length of time, the referee shall inform the chief judge who may appoint a temporary substitute judicial hospitalization referee having the qualifications set forth in this subsection.

3. When an application for involuntary hospitalization is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge is accessible in the county, the clerk shall immediately notify the referee in the manner required by section seven (7) of this Act. The referee shall thereupon discharge all of the duties imposed upon judges of the district court by sections seven (7) through twenty (20) of this Act in the proceeding so initiated. Upon termination of the proceeding or issuance of an order under section thirteen (13) of this Act, the referee shall transmit either to the chief judge, or another judge of the district court designated by the chief judge, a statement of the reasons for the referee's action and a copy of any order issued.

4. Any respondent with respect to whom the judicial hospitalization referee has found the contention that he or she is seriously mentally impaired sustained by clear and convincing evidence presented at a hearing held under section

twelve (12) of this Act, may appeal from the referee's finding to a judge of the district court by giving the clerk notice in writing, within seven days after the referee's finding is made, that an appeal therefrom is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian or attorney. When so appealed, the matter shall stand for trial de novo. Upon appeal, the court shall schedule a hospitalization hearing before a district judge at the earliest practicable time.

5. If the appellant is in custody under the jurisdiction of the district court at the time of service of the notice of appeal, he or she shall be discharged from custody unless an order that the appellant be taken into immediate custody has previously been issued under section eleven (11) of this Act, in which case the appellant shall be detained as provided in that section until the hospitalization hearing before the district judge. If the appellant is in the custody of a hospital at the time of service of the notice of appeal, he or she shall be discharged from custody pending disposition of the appeal unless the chief medical officer, not later than the end of the next secular day on which the office of the clerk is open and which follows service of the notice of appeal, files with the clerk a certification that in the chief medical officer's opinion the appellant is seriously mentally ill. In that case, the appellant shall remain in custody of the hospital until the hospitalization hearing before the district court.

6. The hospitalization hearing before the district judge shall be held, and the judge's finding shall be made and an appropriate order entered, as prescribed by sections twelve (12) and thirteen (13) of this Act. If the judge orders the appellant hospitalized for a complete psychiatric evaluation, jurisdiction of the matter shall revert to the judicial hospitalization referee.

Sec. 22. NEW SECTION. HOSPITALIZATION--EMERGENCY PROCEDURE.

1. The procedure prescribed by this section shall not be used unless it appears that a person should be immediately detained due to serious mental impairment, but that person cannot be immediately detained by the procedure prescribed in sections six (6) and eleven (11) of this Act because there is no means of immediate access to the district court.

2. In the circumstances described in subsection one (1) of this section, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure himself or herself or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility as defined in section eleven (11), subsections two (2) and three (3) of this Act. Immediately upon taking the person into custody, the nearest available magistrate, as defined in section seven hundred forty-eight point one (748.1) of the Code, shall be notified and shall immediately proceed to the facility. The magistrate shall in the manner prescribed by section eight (8), subsection one (1) of this Act insure that the person has or is provided legal counsel at the earliest practicable time, and shall arrange for the counsel to be present, if practicable, before proceeding under this section. The peace officer who took the person into custody shall remain until the magistrate's arrival and shall describe the circumstances of the detention to the magistrate. If the magistrate finds that there is probable cause to believe that the person is seriously mentally impaired, and because of that impairment is likely to physically injure himself or herself or others if not immediately detained, he or she shall enter a written order for the person to be detained in custody and, if the facility where the person is at that time is not an appropriate hospital, transported to an appropriate hospital. The magistrate's order shall state the circumstances under which the person was taken into custody

and the grounds supporting the finding of probable cause to believe that he or she is seriously mentally impaired and likely to physically injure himself or herself or others if not immediately detained. A certified copy of the order shall be delivered to the chief medical officer of the hospital where the person is detained, at the earliest practicable time.

3. The chief medical officer of the hospital shall examine and may detain and care for the person taken into custody under the magistrate's order for a period not to exceed forty-eight hours, excluding Saturdays, Sundays and holidays. The hospital may provide treatment which is necessary to preserve the person's life, or to appropriately control behavior by the person which is likely to result in physical injury to himself or herself or others if allowed to continue, but may not otherwise provide treatment to the person without his or her consent. The person shall be discharged from the hospital and released from custody not later than the expiration of that period, unless an application for his or her involuntary hospitalization is sooner filed with the clerk pursuant to section six (6) of this Act. The detention of any person by the procedure and not in excess of the period of time prescribed by this section shall not render the peace officer, physician or hospital so detaining that person liable in a criminal or civil action for false arrest or false imprisonment if the peace officer, physician or hospital had reasonable grounds to believe the person so detained was mentally ill and likely to physically injure himself or herself or others if not immediately detained.

4. The cost of hospitalization at a public hospital of a person detained temporarily by the procedure prescribed in this section shall be paid in the same way as if the person had been admitted to the hospital by the procedure prescribed in sections six (6) through thirteen (13) of this Act.

Sec. 23. NEW SECTION. RIGHTS AND PRIVILEGES OF

HOSPITALIZED PERSONS. Every person who is hospitalized or detained under this Act shall have the right to:

1. Prompt evaluation, emergency psychiatric services, and care and treatment as indicated by sound medical practice.
2. The right to refuse treatment by shock therapy or chemotherapy, unless the use of these treatment modalities is specifically consented to by the patient's next-of-kin or guardian.

3. In addition to protection of his constitutional rights, enjoyment of other legal, medical, religious, social, political, personal and working rights and privileges which he would enjoy if he were not so hospitalized or detained, so far as is possible consistent with effective treatment of that person and of the other patients of the hospital. If the patient's rights are restricted, the physician's direction to that effect shall be noted on the patient's record. The department of social services shall, in accordance with chapter seventeen A (17A) of the Code establish rules setting forth the specific rights and privileges to which persons so hospitalized or detained are entitled under this section, and the exceptions provided by section seventeen A point two (17A.2), subsection seven (7), paragraphs a and k, shall not be applicable to the rules so established. The patient or his or her next-of-kin or friend shall be advised of these rules and be provided a written copy upon the patient's admission to or arrival at the hospital.

Sec. 24. NEW SECTION. RECORDS OF INVOLUNTARY HOSPITALIZATION PROCEEDING TO BE CONFIDENTIAL.

1. All papers and records pertaining to any involuntary hospitalization or application for involuntary hospitalization of any person under this Act, whether part of the permanent record of the court or of a file in the department of social services, are subject to inspection only upon an order of the court for good cause shown. Nothing in this section shall prohibit a hospital from complying with the requirements of

this Act and of chapter two hundred thirty (230) of the Code relative to financial responsibility for the cost of care and treatment provided a patient in that hospital, nor from properly billing any responsible relative or third-party payer for such care and treatment.

2. If authorized in writing by a person who has been the subject of any proceeding or report under sections six (6) through thirteen (13) or section twenty-two (22) of this Act, or by the parent or guardian of that person, information regarding that person which is confidential under subsection one (1) of this section may be released to any designated person.

Sec. 25. NEW SECTION. MEDICAL RECORDS TO BE CONFIDENTIAL--EXCEPTIONS. The records maintained by a hospital relating to the examination, custody, care and treatment of any person in that hospital pursuant to this Act shall be confidential, except that the chief medical officer may release appropriate information when:

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

2. The information is sought by a court order; or

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

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

Sec. 26. NEW SECTION. EXCLUSIVE PROCEDURE FOR INVOLUNTARY

HOSPITALIZATION. Sections six (6) through twenty (20), inclusive, of this Act shall constitute the exclusive procedure for involuntary hospitalization of persons by reason of serious mental impairment in this state, except that nothing in this Act shall negate the provisions of sections two hundred forty-five point twelve (245.12) and two hundred forty-six point sixteen (246.16) of the Code relative to transfer of mentally ill prisoners to state hospitals for the mentally ill.

Sec. 27. NEW SECTION. HOSPITALIZATION NOT TO EQUATE WITH INCOMPETENCY--PROCEDURE FOR FINDING INCOMPETENCY DUE TO MENTAL ILLNESS.

1. Hospitalization of any person under this Act, either voluntarily or involuntarily, shall not be deemed to constitute a finding of or to equate with nor raise a presumption of incompetency, or to cause the person so hospitalized to be deemed a lunatic, a person of unsound mind, or a person under legal disability for any purpose including but not limited to any circumstances to which sections four hundred forty-seven point seven (447.7), four hundred seventy-two point fifteen (472.15), five hundred forty-five point two (545.2), subsection thirteen (13), five hundred forty-five point eleven (545.11), subsection seven (7), five hundred forty-five point thirty-six (545.36), five hundred sixty-seven point seven (567.7), five hundred ninety-five point three (595.3), five hundred ninety-seven point six (597.6), five hundred ninety-eight point twenty-nine (598.29), six hundred fourteen point eight (614.8), six hundred fourteen point nineteen (614.19), six hundred fourteen point twenty-two (614.22), six hundred fourteen point twenty-four (614.24), six hundred fourteen point twenty-seven (614.27), six hundred twenty-two point six (622.6), six hundred thirty-three point two hundred forty-four (633.244), six hundred thirty-three point two hundred sixty-six (633.266), subsection four (4), and six hundred seventy-five point twenty-one (675.21) of the Code are applicable.

2. The applicant may, in initiating a petition for involuntary hospitalization of a person under section six (6) of this Act or at any subsequent time prior to conclusion of the involuntary hospitalization proceeding, also petition the court for a finding that the person is incompetent by reason of mental illness. The test of competence for the purpose of this section shall be whether the person possesses sufficient mind to understand in a reasonable manner the nature and effect of the act in which he or she is engaged; the fact that a person is mentally ill and in need of treatment for that illness but because of the illness lacks sufficient judgment to make responsible decisions with respect to his or her hospitalization or treatment does not necessarily mean that that person is incapable of transacting business on any subject.

3. A hearing limited to the question of the person's competence and conducted in substantially the manner prescribed in sections six hundred thirty-three point five hundred fifty-two (633.552) through six hundred thirty-three point five hundred fifty-six (633.556) of the Code shall be held when:

a. The court is petitioned or proposes upon its own motion to find incompetent by reason of mental illness a person whose involuntary hospitalization has been ordered under sections thirteen (13) or fourteen (14) of this Act, and who contends that he or she is not incompetent; or

b. A person previously found incompetent by reason of mental illness under subsection two (2) of this section petitions the court for a finding that he or she is no longer incompetent and, after notice to the applicant who initiated the petition for hospitalization of the person and to any other party as directed by the court, an objection is filed with the court. The court may order a hearing on its own motion before acting on a petition filed under this paragraph. A petition by a person for a finding that he or she is no longer incompetent may be filed at any time without regard

to whether the person is at that time hospitalized for treatment of mental illness.

4. Upon petitioning the court for a finding that a respondent is incompetent by reason of mental illness, the applicant may also request the court to appoint a conservator for the respondent. The court may appoint a temporary conservator as provided by section six hundred thirty-three point five hundred seventy-three (633.573) of the Code, or may defer a decision on the appointment of a conservator until a report is received under section thirteen (13) of this Act if the respondent is hospitalized for evaluation pursuant to that section.

5. Nothing in this Act shall preclude use of any other procedure authorized by law for declaring any person legally incompetent for reasons which may include mental illness, without regard to whether that person is or has been hospitalized for treatment of mental illness.

Sec. 28. NEW SECTION. HOSPITALIZATION IN CERTAIN FEDERAL FACILITIES. When a court finds that the contention that a respondent is seriously mentally impaired has been sustained or proposes to order continued hospitalization of any person, or an alternative placement, under section fourteen (14), subsection two (2) or four (4) of this Act, and the court is furnished evidence that the respondent or patient is eligible for care and treatment in a facility operated by the veterans administration or another agency of the United States government and that the facility is willing to receive the respondent or patient, the court may so order. The respondent or patient, when so hospitalized or placed in a facility operated by the veterans administration or another agency of the United States government within or outside of this state, shall be subject to the rules of the veterans administration or other agency, but shall not thereby lose any procedural rights afforded the respondent or patient by this Act. The chief officer of the facility shall have, with

respect to the person so hospitalized or placed, the same powers and duties as the chief medical officer of a hospital in this state would have in regard to submission of reports to the court, retention of custody, transfer, convalescent leave or discharge. Jurisdiction is retained in the court to maintain surveillance of the person's treatment and care, and at any time to inquire into that person's mental condition and the need for continued hospitalization or care and custody.

Sec. 29. NEW SECTION. TRANSFER TO CERTAIN FEDERAL FACILITIES. Upon receipt of a certificate stating that any person involuntarily hospitalized under this Act is eligible for care and treatment in a facility operated by the veterans administration or another agency of the United States government which is willing to receive the person without charge to the state of Iowa or any county in the state, the chief medical officer may transfer the person to that facility. Upon so doing, the chief medical officer shall notify the court which ordered the person's hospitalization in the same manner as would be required in the case of a transfer under section fifteen (15), subsection four (4) of this Act, and the person transferred shall be entitled to the same rights as he or she would have under that subsection. No person shall be transferred under this section who is confined pursuant to conviction of a public offense or whose hospitalization was ordered upon contention of incompetence to stand trial by reason of mental illness, without prior approval of the court which ordered that person's hospitalization.

Sec. 30. NEW SECTION. ORDERS OF COURTS IN OTHER STATES. A judgment or order of hospitalization or commitment by a court of competent jurisdiction of another state or the District of Columbia, under which any person is hospitalized or placed in a facility operated by the veterans administration or another agency of the United States government, shall have the same force and effect with respect to that person while

he or she is in this state as the judgment or order would have if the person were in the jurisdiction of the court which issued it. That court shall be deemed to have retained jurisdiction of the person so hospitalized or placed for the purpose of inquiring into that person's mental condition and the need for continued hospitalization or care and custody, as do courts in this state under section twenty-eight (28) of this Act. Consent is hereby given to the application of the law of the state or district in which is situated the court which issued the judgment or order as regards authority of the chief officer of any facility, operated in this state by the veterans administration or another agency of the United States government, to retain custody, transfer, place on convalescent leave or discharge the person so hospitalized or committed.

Sec. 31. Sections two hundred twenty-nine point one (229.1) through two hundred twenty-nine point thirty (229.30), inclusive, Code 1975, are repealed and sections one (1) through thirty (30) of this Act adopted in lieu thereof.

Sec. 32. Section four point one (4.1), subsection six (6), Code 1975, is amended to read as follows:

6. MENTALLY ILL. The words "mentally ill person" include mental retardates, lunatics, distracted persons, and persons of unsound mind. No person who is hospitalized or detained for treatment of mental illness shall be deemed or presumed to be incompetent in the absence of a finding of incompetence made pursuant to section twenty-seven (27) of this Act.

Sec. 33. Section forty-eight point thirty (48.30), Code 1975, is amended to read as follows:

48.30 NOTIFICATION OF CHANGES IN REGISTRATION. The clerk of the district court shall promptly notify the county commissioner of registration of changes of name and of convictions of infamous crimes or felonies, of legal declarations of ~~mental~~ incompetence made after a proceeding held pursuant to section twenty-seven (27) of this Act, and

of diagnosis of severe or profound mental retardation ~~or of severe psychiatric illness~~ of persons of voting age. The clerk of the district court shall also notify the county commissioner of registration of the restoration of citizenship of a person who has been convicted of an infamous crime or felony and of the finding that a person is of good mental health. The notice will not restore voter registration. The county commissioner of registration shall notify the person whose citizenship has been restored or who has been declared to be in good mental health that his registration to vote was canceled and he must register again to become a qualified elector.

Sec. 34. Section forty-eight point thirty-one (48.31), subsection six (6), Code 1975, is amended to read as follows:

6. The clerk of district court sends notification of a legal determination that the elector is severely or profoundly mentally retarded, or has been ~~diagnosed as ill for severe psychiatric reasons~~ found incompetent in a proceeding held pursuant to section twenty-seven (27) of this Act, or is otherwise under conservatorship or guardianship by reason of incompetency. Certification by the ~~superintendent of a mental health hospital or other institution upon the discharge of~~ clerk that any such person ~~that he is, at that time, restored to good mental health shall qualify such person to again be an elector, subject to the other provisions of this chapter.~~ Termination has been found no longer incompetent by a court, or the termination by the court of any such conservatorship or guardianship shall qualify any such ward to again be an elector, subject to the other provisions of this chapter.

Sec. 35. Section two hundred eighteen point forty-six (218.46), subsection two (2), Code 1975, is amended to read as follows:

2. The directors of such state institutions are authorized to provide services and facilities for the scientific

observation, rechecking and treatment of mentally ill persons within the state. Application by, or on behalf of, any person for such services and facilities shall be made to the director in charge of the particular institution involved and shall be made on forms furnished by such director. The time and place of admission of any person to outpatient or clinical services and facilities for scientific observation, rechecking and treatment and the use of such services and facilities for the benefit of persons who have already been ~~committed~~ hospitalized for psychiatric evaluation and appropriate treatment or involuntarily hospitalized as seriously mentally ill shall be in accordance with rules and regulations adopted by the director in control of the particular institution involved.

Sec. 36. Section two hundred eighteen point ninety-two (218.92), Code 1975, is amended to read as follows:

218.92 DANGEROUS MENTAL PATIENTS. Whenever a patient in any state hospital-school for the mentally retarded, any mental health institute, or any institution under the administration of the director of the division of mental health of the department of social services, has become so mentally disturbed as to constitute a danger to self, to other patients in the institution or to the public, and the institution involved cannot provide adequate security, the director of ~~such institution~~ mental health with the consent of the director of corrections of the department of social services may order the patient to be transferred to the Iowa security medical facility, provided that the executive head of the institution ~~involved~~ from which the patient is to be transferred, with the support of a majority of his medical staff, recommends the transfer in the interest of the patient, other patients or the public. ~~The order of the director of the division of mental health shall have the same force and effect as a warrant of commitment for mental illness.~~ If the patient transferred was hospitalized pursuant to sections

six (6) through fifteen (15) of this Act, the transfer shall be promptly reported to the court which hospitalized the patient, as required by section fifteen (15), subsection three (3), of this Act. The Iowa security medical facility shall have the same rights, duties and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized there.

The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

Sec. 37. Section two hundred eighteen point ninety-five (218.95), subsection one (1), Code 1975, is amended to read as follows:

1. "Mentally ill" and "insane", except that the hospitalization or detention of any person for treatment of mental illness shall not constitute a finding or create a presumption that the individual is legally insane in the absence of a finding of incompetence made pursuant to section twenty-seven (27) of this Act;

Sec. 38. Section two hundred twenty-two point seven (222.7), Code 1975, is amended to read as follows:

222.7 TRANSFERS. The state director may transfer patients from one state hospital-school to the other and may at any time transfer any patient from the hospital-schools to the hospitals for the mentally ill, or from the latter to the former, transfer patients in the hospital-schools to a special unit or vice versa, or make such transfers as are permitted in section 218.92. The state director may also transfer patients from a hospital for the mentally ill to a hospital-school if:

1. In the case of a patient who entered the hospital for the mentally ill 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 six (6) through fifteen (15) of this Act, the consent

of the court which hospitalized the patient is obtained in advance, rather than afterward as otherwise permitted by section fifteen (15), subsection three (3) of this Act.

Sec. 39. Section two hundred twenty-two point fifty-five (222.55), Code 1975, is amended to read as follows:

222.55 PROCEDURE AS MENTALLY ILL PERSON. If it appears at any time that a person has under the provisions of this chapter been placed under guardianship or committed to a private institution and should be ~~committed to~~ evaluated and treated in a hospital for the mentally ill, the person may be ~~preceeded against~~ hospitalized under any of the chapters relating to the mentally ill provisions of sections two (2) through fifteen (15) of this Act.

Sec. 40. Section two hundred twenty-three point eight (223.8), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Chapter 239 shall govern the determination of the costs and charges for the care and treatment of mentally ill patients admitted to the Iowa security medical facility as direct civil commitments upon authorization of ~~a county hospitalization commission~~ the district court, or as persons having no legal settlement in this state. The charge for the cost of other admittees shall be as follows:

Sec. 41. Section two hundred twenty-four point one (224.1), Code 1975, is amended to read as follows:

224.1 COMMITMENT. Persons addicted to the excessive use of any controlled substance contained in schedules I, II, III, or IV of chapter 204 may be committed by the ~~commissioners of hospitalization~~ district court of each county to such institutions as the commissioner of the state department of social services may designate, or to such private facilities as the Iowa drug abuse authority may designate; or to any hospital accredited to give psychiatric care, provided that, commitments to private facilities shall only be made upon approval of the board of supervisors or upon agreement by

the patient or responsible relatives to pay the full costs of treatment and upon having made the necessary arrangements for admission and support.

Sec. 42. Section two hundred twenty-five point ten (225.10), Code 1975, is amended to read as follows:

225.10 ~~APPLICATION FOR ADMISSION~~ VOLUNTARY PUBLIC PATIENTS. Persons suffering from mental diseases may be admitted as ~~committed~~ voluntary public patients as follows: Any physician authorized to practice ~~his profession~~ medicine, osteopathy or osteopathic medicine in the state of Iowa ~~or any citizen of the state~~ may file information with any district court of the state or with any judge thereof, ~~alleging~~ stating that the physician has examined the person named therein and finds that the person is suffering from some abnormal mental condition that can probably be remedied by observation, treatment, and hospital care; that the physician believes it would be appropriate for the person to enter the state psychopathic hospital for that purpose and that the person is willing to do so; and that he is, of himself or through neither the person nor those legally responsible for him, unable the person are able to provide the means for such observation and hospital care.

Sec. 43. Section two hundred twenty-five point eleven (225.11), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

225.11 INITIATING COMMITMENT PROCEDURES. When a court finds upon completion of a hearing held pursuant to section twelve (12) of this Act that the contention that a respondent is seriously mentally impaired has been sustained by clear and convincing evidence, and the application filed under section six (6) of this Act also contends or the court otherwise concludes that it would be appropriate to refer the respondent to the state psychopathic hospital for a complete psychiatric evaluation and appropriate treatment pursuant to section thirteen (13) of this Act, the judge may order

that a financial investigation be made in the manner prescribed by section two hundred twenty-five point thirteen (225.13) of the Code.

Sec. 44. Section two hundred twenty-five point twelve (225.12), Code 1975, is amended to read as follows:

225.12 ~~EXAMINATION AND~~ VOLUNTARY PUBLIC PATIENT-- PHYSICIAN'S REPORT. Said A physician filing an information under section two hundred twenty-five point ten (225.10) of the Code shall make include a written report to the said judge, giving such a history of the case as will be likely to aid in the observation, treatment, and hospital care of said the person named in the information and describing the same, all in detail, and stating whether or not, in his opinion, the said person would probably be helped by observation, treatment, and hospital care in said state psychopathic hospital.--Such report shall be made within such time as may be fixed by the court.

Sec. 45. Section two hundred twenty-five point thirteen (225.13), Code 1975, is amended to read as follows:

225.13 FINANCIAL CONDITION. It shall be the duty of the said judge to have a thorough investigation made by the county attorney of the county in which of residence of the said person resides named in the information, regarding his the financial condition and the financial condition of that person and of those legally responsible for him that person.

Sec. 46. Section two hundred twenty-five point fourteen (225.14), Code 1975, is amended to read as follows:

225.14 ~~NOTICE--TRIAL FINDING AND ORDER.~~ Upon the filing of such the report or reports, said of a financial investigation made pursuant to an order issued under section two hundred twenty-five point eleven (225.11) of the Code, the judge of the district court as aforesaid shall fix a day for the hearing upon the complaint and shall cause the person or those legally responsible for him to be served with a notice of the hearing, and he shall also notify the county

~~attorney, who shall appear and conduct the proceedings, and upon such complaint evidence may be introduced--upon such hearing the person against whom the complaint is made shall be entitled to a trial by jury~~ review it and make a determination in the matter. If the judge ~~or jury~~ finds that the said person respondent is ~~suffering from an abnormal mental condition which can probably be remedied by observation, medical or surgical treatment, and hospital care~~ an appropriate subject for referral to the state psychopathic hospital, and that ~~he, or the respondent and those legally responsible for him, or her~~ are unable to pay the expenses thereof, said the judge shall enter an order directing that the said person respondent shall be sent to the state psychopathic hospital at the state University of Iowa for observation, treatment, and hospital care as a committed public patient.

Sec. 47. Section two hundred twenty-five point fifteen (225.15), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

225.15 EXAMINATION AND TREATMENT. When the patient respondent arrives at said the state psychopathic hospital it shall be the duty of the director, or of some physician acting for him, to examine the said patient respondent and determine whether or not, in his the physician's judgment, he the patient is a fit subject for such observation, treatment, and hospital care. If, upon said examination, he the physician decides that such patient should be admitted to the said hospital, the medical director shall provide him the patient with a proper bed in said the hospital; and the physician or surgeon who shall have charge of said the patient shall proceed with such observation, medical or surgical treatment, and hospital care as in his the physician's judgment are proper and necessary, in compliance with sections thirteen (13) through sixteen (16) of this Act.

Sec. 48. Section two hundred twenty-five point sixteen (225.16), Code 1975, is amended to read as follows:

225.16 VOLUNTARY PUBLIC PATIENTS--COMMITMENT ADMISSION.

If the said judge of the district court, or the clerk of the court, as aforesaid, finds from the physician's report information which was filed under the provisions of section 225.42 two hundred twenty-five point ten (225.10) of the Code, that it would be appropriate for the said person is suffering from an abnormal mental condition which can probably be remedied by observation, medical or surgical treatment, and hospital care to enter the state psychopathic hospital, and the report of the county attorney shows that he, or neither the person nor those legally responsible for him, or her are unable able to pay the expenses thereof, said or are able to pay only a part of the expenses, the judge or clerk shall enter an order directing that the said person shall be sent to the state psychopathic hospital at the state University of Iowa for observation, treatment, and hospital care as a voluntary public patient, ~~provided that the said person, or those legally responsible for him, request the said court or judge to commit said person without the hearing which is required under the provisions of section 225.44.~~

When the said patient arrives at the said hospital, he or she shall receive the same treatment as is provided for committed public patients in section 225.15.

Sec. 49. Section two hundred twenty-five point seventeen (225.17), Code 1975, is amended to read as follows:

225.17 COMMITTED PRIVATE PATIENTS--TREATMENT. If the said judge of the district court, ~~as aforesaid,~~ finds in the hearing as provided for upon the review and determination made under the provisions of section 225.14 that the said person is suffering from an abnormal mental condition which can probably be remedied by observation, medical or surgical treatment, and hospital care respondent is an appropriate subject for placement at the state psychopathic hospital, and that he, the respondent or those legally responsible for him, or her are able to pay the expenses thereof, said

the judge shall enter an order directing that the said-person respondent shall be sent to the state psychopathic hospital at the state University of Iowa for observation, treatment, and hospital care as a committed private patient.

When the said-patient respondent arrives at the said hospital, he or she shall receive the same treatment as is provided for committed public patients in section 225.15, in compliance with sections thirteen (13) through sixteen (16) of this Act.

Sec. 50. Section two hundred twenty-five point twenty (225.20), Code 1975, is amended to read as follows:

225.20 COMPENSATION FOR PHYSICIAN. The physician appointed to-make making the examination and-report on which is based any information filed under section two hundred twenty-five point ten (225.10) of the Code shall receive the such sum of-five-dollars as the court may direct for each and every examination and-report information so made, and his actual necessary expenses incurred in making such investigation examination, in conformity with the requirements of this chapter, if the person named in the information is referred to the state psychopathic hospital.

Sec. 51. Section two hundred twenty-five point twenty-seven (225.27), Code 1975, is amended to read as follows:

225.27 DISCHARGE--TRANSFER. The medical director of the state psychopathic hospital may, at any time, discharge any patient as recovered, as improved, or as not likely to be benefited by further treatment, and-upon-said-discharge-said. If the patient being so discharged was involuntarily hospitalized, the director shall notify the committing judge or court thereof, and-the-said as required by section four-teen (14), subsection three (3), or section sixteen (16) of this Act, whichever is applicable. The court or judge shall, if necessary, appoint some person to accompany said the discharged patient from the said state psychopathic hospital to such place as he the director or the court may designate,

or authorize the said medical director to appoint such attendant.

Sec. 52. Section two hundred twenty-five point thirty (225.30), Code 1975, is amended to read as follows:

225.30 BLANKS--AUDIT. The medical faculty of the hospital of the college of medicine of the state University of Iowa shall prepare blanks containing such questions and requiring such information as may be necessary and proper to be obtained by the physician who examines the-patient-under-order-of court, and-such a person or respondent whose referral to the state psychopathic hospital is contemplated. A judge may request that a physician who examines a respondent as required by section ten (10) of this Act complete such blanks in duplicate in the course of the examination. A physician who proposes to file an information under section two hundred twenty-five point ten (225.10) of the Code shall obtain and complete such blanks in duplicate and file them with the information. The blanks shall be printed by the state and a supply thereof shall be sent to the clerk of each district court of the state. The state comptroller shall audit, allow, and pay the cost of the blanks as other bills for public printing are allowed and paid.

Sec. 53. Section two hundred twenty-six point nine (226.9), Code 1975, is amended to read as follows:

226.9 CUSTODY OF PATIENT. The superintendent, upon the receipt of a duly executed order of admission of a patient into the hospital for the mentally ill, accompanied-by-the physician's-certificate-provided-by-law pursuant to section thirteen (13) of this Act, shall take such patient into custody and restrain him or her as provided by law and the rules of the state director, without liability on the part of such superintendent and all other officers of the hospital to prosecution of any kind on account thereof, but no person shall be detained in the hospital who is found by the superintendent to be in good mental health.

Sec. 54. Section two hundred twenty-six point sixteen (226.16), Code 1975, is amended to read as follows:

226.16 UNAUTHORIZED DEPARTURE AND RETAKING. It shall be the duty of the superintendent and of all other officers and employees of any of said hospitals, in case of the unauthorized departure of any involuntarily hospitalized patient, to exercise all due diligence to take into protective custody and return said patient to the hospital. A notification by the superintendent of such unauthorized departure to any peace officer of the state or to any private person shall be sufficient authority to such officer or person to take and return such patient to the hospital.

Sec. 55. Section two hundred twenty-six point eighteen (226.18), Code 1975, is amended to read as follows:

226.18 INVESTIGATION AS TO MENTAL HEALTH. The state director may investigate the mental condition of any patient and shall discharge any person, if, in his opinion, such person is not mentally ill, or can be cared for after such discharge without danger to others, and with benefit to the patient; but in determining whether such patient shall be discharged, the recommendation of the superintendent shall be secured. If the state director orders the discharge of an involuntarily hospitalized patient, the discharge shall be by the procedure prescribed in section sixteen (16) of this Act. The power to investigate the mental condition of a patient is merely permissive, and does not repeal or alter any statute respecting the discharge or commitment of patients of the state hospitals.

Sec. 56. Section two hundred twenty-six point nineteen (226.19), Code 1975, is amended to read as follows:

226.19 DISCHARGE--CERTIFICATE. All patients shall be discharged, by the procedure prescribed in section three (3) or section sixteen (16) of this Act, whichever is applicable, immediately on regaining their good mental health. ~~and the superintendent shall issue duplicate certificates of full~~

~~recovery, one of which he shall deliver to the recovered patient, and the other of which he shall forward to the clerk of the district court of the county from which the patient was committed.~~

Sec. 57. Section two hundred twenty-six point twenty-three (226.23), Code 1975, is amended to read as follows:

226.23 CONVALESCENT LEAVE OF PATIENTS. Upon the recommendation of the superintendent, and the written consent of the ~~commissioners of hospitalization of the county which is the legal settlement of a~~ district court which ordered hospitalization in the case of an involuntary patient, the state director may place on convalescent leave said patient for a period not to exceed one year, under such conditions as are prescribed by said state director.

Sec. 58. Section two hundred twenty-six point twenty-six (226.26), Code 1975, is amended to read as follows:

226.26 DANGEROUS INCURABLES. The state director, on the recommendation of the superintendent, and on the application of the relatives or friends of a patient who is not cured and who cannot be safely allowed to go at liberty, may release such patient when fully satisfied that such relatives or friends will provide and maintain all necessary supervision, care, and restraint over such patient. If the patient being so released was involuntarily hospitalized, the consent of the district court which ordered the patient's hospitalization shall be obtained in advance in substantially the manner prescribed by section fourteen (14), subsection three (3) of this Act.

Sec. 59. Section two hundred twenty-six point thirty-one (226.31), Code 1975, is amended to read as follows:

226.31 EXAMINATION BY COURT--NOTICE. Before granting the order authorized in section 226.30 the court or judge shall investigate the allegations of the petition and before proceeding to a hearing thereon shall require notice to be served on the attorney who represented the patient in any

prior proceedings under sections six (6) through fifteen (15) of this Act or the advocate appointed under section nineteen (19) of this Act, or in the case of a patient who entered the hospital voluntarily, on any relative, friend, or guardian of the person in question of the filing of said application. On such hearing the court or judge shall appoint a guardian ad litem for said person, if it seems such action necessary to protect the rights of such person.

Sec. 60. Section two hundred twenty-six point thirty-two (226.32), Code 1975, is amended to read as follows:

226.32 OVERCROWDED CONDITIONS. The state director shall order the discharge or removal from the hospital of incurable and harmless patients whenever it is necessary to make room for recent cases, ~~and. If a patient who is to be so discharged entered the hospital voluntarily, the state director shall~~ notify the auditor of the county interested at least ten days in advance of the date of actual discharge.

Sec. 61. Section two hundred twenty-six point thirty-three (226.33), Code 1975, is amended to read as follows:

226.33 NOTICE TO COMMISSIONERS. When a patient who was hospitalized involuntarily and who has not fully recovered is discharged from the hospital ~~without application therefor by the state director under section two hundred twenty-six point thirty-two (226.32) of the Code, notice of the order shall at once be sent to the commissioners of hospitalization of the county of which the patient is a resident, and the commissioners shall forthwith cause the patient to be removed, and shall at once provide for his care in the county as in other cases~~ court which ordered the patient's hospitalization, in the manner prescribed by section fourteen (14), subsection four (4) of this Act.

Sec. 62. Section two hundred twenty-seven point ten (227.10), Code 1975, is amended to read as follows:

227.10 TRANSFERS FROM COUNTY OR PRIVATE INSTITUTIONS. Patients who are suffering from acute mental illness, and

who are violent, and confined at public expense in any such institution, may be removed by the state director to the proper state hospital for the mentally ill when, on competent medical testimony, the state director finds that said patient can be better cared for and with better hope of recovery in the state hospital. If the patient was hospitalized involuntarily, the state director shall report the transfer in the manner required of a chief medical officer under section fifteen (15), subsection four (4) of this Act. Such removal shall be at the expense of the proper county. Said expense shall be recovered as provided in section 227.7.

Sec. 63. Section two hundred twenty-seven point eleven (227.11), Code 1975, is amended to read as follows:

227.11 TRANSFERS FROM STATE HOSPITALS. A county chargeable with the expense of a patient in a state hospital for the mentally ill shall remove such patient to a county or private institution for the mentally ill which has complied with the aforesaid rules when the state director so orders on a finding that said patient is suffering from chronic mental illness or from senility and will receive equal benefit by being so transferred. A county shall remove to its county home any patient in a state hospital for the mentally ill upon a finding by a commission, consisting of the superintendent of the state hospital in which the patient is confined and a physician or physicians chosen by the board of supervisors of the county of the patient's residence, said physician or physicians to be paid by the county of the patient's residence, that such patient can be properly cared for in the county home; and the finding of the commission, after its approval by the board of supervisors of the county of the patient's residence, shall be complete authority for such removal. In no case shall a patient be thus transferred except upon compliance with section fourteen (14), subsection four (4) of this Act or without the written consent of a relative, friend, or guardian if such relative, friend, or guardian pays the expense of

the care of such patient in a state hospital.

Sec. 64. Section two hundred twenty-seven point fifteen (227.15), Code 1975, is amended to read as follows:

227.15 AUTHORITY TO CONFINE IN HOSPITAL. No person shall be involuntarily confined and restrained in any private institution or hospital or county hospital or other general hospital with psychiatric ward for the care or treatment of the mentally ill, except by the procedure prescribed in sections six (6) through fifteen (15) of this Act upon the certificate of the commission of hospitalization of the county in which such person resides, or of two reputable physicians, at least one of whom shall be a bona fide resident of this state, who shall certify that such person is a fit subject for treatment and restraint in said institution or hospital, which certificate shall be the authority of the owners and officers of said hospital or institution for receiving and confining said patient or person therein.

Sec. 65. Section two hundred twenty-nine point thirty-one (229.31), Code 1975, is amended to read as follows:

229.31 COMMISSION OF INQUIRY. A sworn complaint, alleging that a named person is not seriously mentally ~~+++~~ impaired and is unjustly deprived of his liberty in any hospital in the state, may be filed by any person with the clerk of the district court of the county in which such named person is so confined, or of the county in which such named person has a legal settlement, and thereupon a judge of said court shall appoint a commission of not more than three persons to inquire into the truth of said allegations. One of said commissioners shall be a physician and if additional commissioners are appointed, one of such commissioners shall be a lawyer.

Sec. 66. Section two hundred twenty-nine point thirty-two (229.32), Code 1975, is amended to read as follows:

229.32 DUTY OF COMMISSION. Said commission shall at once proceed to the place where said person is confined and make a thorough and discreet examination for the purpose of

determining the truth of said allegations and shall promptly report its findings to said judge in writing. Said report shall be accompanied by a written statement of the case signed by the superintendent chief medical officer of the hospital in which the person is confined.

Sec. 67. Section two hundred twenty-nine point thirty-three (229.33), Code 1975, is amended to read as follows:

229.33 HEARING. If, on such report and statement, and the hearing of testimony if any is offered, the judge shall find that such person is in good mental health, he not seriously mentally impaired, the judge shall order his the person's discharge; if the contrary, he the judge shall so state, and authorize his the continued detention of the person, subject to all applicable requirements of this Act.

Sec. 68. Section two hundred twenty-nine point thirty-four (229.34), Code 1975, is amended to read as follows:

229.34 FINDING AND ORDER FILED. The finding and order of the judge, with the report and other papers, shall be filed in the office of the clerk of the court where the complaint was filed. Said clerk shall enter a memorandum thereof on his the appropriate record, and forthwith notify the superintendent chief medical officer of the hospital of the finding and order of the judge, and the superintendent chief medical officer shall carry out the order.

Sec. 69. Section two hundred twenty-nine point thirty-seven (229.37), Code 1975, is amended to read as follows:

229.37 HABEAS CORPUS. All persons confined as seriously mentally ~~+++~~ impaired shall be entitled to the benefit of the writ of habeas corpus, and the question of serious mental illness impairment shall be decided at the hearing. If the judge shall decide that the person is seriously mentally ~~+++~~ impaired, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person has been restored to reason is no longer seriously mentally impaired.

Sec. 70. Section two hundred twenty-nine point thirty-eight (229.38), Code 1975, is amended to read as follows:

229.38 CRUELTY OR OFFICIAL MISCONDUCT. If any person having the care of a mentally ill person who has voluntarily entered a hospital or other facility for treatment or care, and-restraining-him or who is responsible for psychiatric examination care, treatment and maintenance of any person involuntarily hospitalized under sections six (6) through fifteen (15) of this Act, whether in a hospital or elsewhere, with or-without proper authority, shall treat him such patient with unnecessary severity, harshness, or cruelty, or in any way abuse him the patient, or if any person unlawfully detains or deprives of liberty any mentally ill or allegedly mentally ill person, or if any officer required by the provisions of this chapter and chapters 226 to-228, inclusive and two hundred twenty-seven (227) of the Code, to perform any act shall willfully refuse or neglect to perform the same, he the offending person shall, unless otherwise provided, be fined not to exceed five hundred dollars, or be imprisoned in the county jail not to exceed three months, and pay the costs of prosecution, or be both fined and imprisoned at the discretion of the court.

Sec. 71. Section two hundred twenty-nine point forty-one (229.41), Code 1975, is amended by striking the first unnumbered paragraph.

Sec. 72. Section two hundred twenty-nine point forty-one (229.41), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Persons making application ~~directly-to-the-superintendent~~ and pursuant to section two (2) of this Act on their own behalf or on behalf of another person who is under eighteen years of age, if the person whose admission is sought is received for observation and treatment on such application, shall be required to pay the costs of hospitalization at rates established by the state director, which costs may be collected

weekly in advance and shall be payable at the business office of the hospital. Such collections shall be remitted to the state comptroller monthly to be credited to the general fund of the state.

Sec. 73. Section two hundred twenty-nine point forty-two (229.42), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

If a person wishing to make application for voluntary admission to a mental hospital is unable to pay the costs of hospitalization or those responsible for such person are unable to pay such costs, application for authorization of voluntary admission must be made to any clerk of the district court before application for admission is made to the hospital. After determining the county of legal settlement the said clerk shall, on forms provided by the state director, authorize such person's admission to a mental health hospital as a voluntary case. The clerk shall at once provide a duplicate copy of the form to the county board of supervisors. The costs of the hospitalization shall be paid by the county of legal settlement to the state comptroller and credited to the general fund of the state, providing the mental health hospital rendering the services has certified to the county auditor of the responsible county the amount chargeable thereto and has sent a duplicate statement of such charges to the state comptroller.

Sec. 74. Section two hundred twenty-nine point forty-three (229.43), Code 1975, is amended to read as follows:

229.43 NONRESIDENTS OR NO-SETTLEMENT PATIENTS. The state director shall have the power to place patients of mental health institutes who have no county of legal settlement; who are nonresidents; or whose legal settlement is unknown, on convalescent leave to a private sponsor or in any health care facility licensed under chapter 135C, when in the opinion of the state director said placement is in the best interests of the patient and the state of Iowa. If the patient was

involuntarily hospitalized the district court which hospitalized the patient must be informed when the patient is placed on convalescent leave, as required by section fifteen (15), subsection four (4) of this Act.

Sec. 75. Section two hundred thirty point two (230.2), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

The ~~commission-of-hospitalization~~ district court shall, when a person is ~~found-to-be-mentally-ill~~ ordered placed in a hospital for psychiatric examination and appropriate treatment, or as soon thereafter as it obtains the proper information, determine and enter of record whether the legal settlement of said person is:

Sec. 76. Section two hundred thirty point three (230.3), Code 1975, is amended to read as follows:

230.3 CERTIFICATION OF SETTLEMENT. If such legal settlement is found to be in another county of this state, the commission court shall, as soon as said determination is made, certify such finding to the superintendent of the hospital to which said patient is admitted or committed, and thereupon said superintendent shall charge the expenses already incurred and unadjusted, and all future expenses of such patient, to the county so certified until said settlement shall be otherwise determined as hereinafter provided.

Sec. 77. Section two hundred thirty point four (230.4), Code 1975, is amended to read as follows:

230.4 CERTIFICATION TO DEBTOR COUNTY. Said finding of legal settlement shall also be certified by the commission court to the county auditor of the county of such legal settlement. Such auditor shall lay such notification before the board of supervisors of his county, and it shall be conclusively presumed that such person has a legal settlement in said notified county unless said county shall, within ~~six months sixty days~~ give notice, in writing ~~filed-with-the~~ commission-of-hospitalization-giving-said-notice-dispute

such to the court that the county disputes the finding of legal settlement.

Sec. 78. Section two hundred thirty point five (230.5), Code 1975, is amended to read as follows:

230.5 NONRESIDENTS. If such legal settlement is found by the commission court to be in some foreign state or country, or unknown, it shall, ~~without-entering-an-order-of-admission-or-commitment-to-the-state-hospital,~~ immediately notify the state director of such finding and furnish the state director with a copy of the evidence taken on the question of legal settlement, and ~~hold-said-patient-for-investigation-by-said-state-director~~ shall in its order issued pursuant to section thirteen (13) of this Act direct that the patient be hospitalized at the appropriate state hospital for the mentally ill.

Sec. 79. Section two hundred thirty point six (230.6), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. If the state director finds that the decision of the commission-of-hospitalization court as to legal settlement is correct, the state director shall cause said patient either to be transferred to a state hospital for the mentally ill ~~and-there-maintained~~ at the expense of the state, or to be transferred, with approval of the court as required by this Act, to the place of foreign settlement.

2. If the state director finds that the decision of the commission-of-hospitalization court is not correct, the state director shall order said patient ~~transferred to be maintained at a state hospital for the mentally ill and-there-maintained~~ at the expense of the ~~county-of-legal-settlement-in-this~~ state, and shall at once inform the court of such finding and request that the court's order be modified accordingly.

Sec. 80. Section two hundred thirty point seven (230.7), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

230.7 TRANSFER OF NONRESIDENTS. Upon determining that a patient in a state hospital who has been involuntarily hospitalized under this Act or admitted voluntarily at public expense was not a resident of this state at the time of the involuntary hospitalization or admission, the state director may cause that patient to be conveyed to his or her place of residence. However, a transfer under this section may be made only if the patient's condition so permits and other reasons do not render the transfer inadvisable. If the patient was involuntarily hospitalized, prior approval of the transfer must be obtained from the court which ordered the patient hospitalized.

Sec. 81. Section three hundred twenty-one point one hundred seventy-seven (321.177), subsection five (5), Code 1975, is amended to read as follows:

5. To any person, as an operator or chauffeur, who has previously been adjudged to be ~~afflicted with or suffering from any mental disability or disease incompetent by reason of mental illness~~ and who has not at the time of application been restored to competency by the methods provided by law. ~~Provided, however, that the department may issue such license when said mentally ill person is placed on parole or convalescent leave, when advised in writing that the medical staff and superintendent of the institution in which the person has been hospitalized recommend the issuance of said license.~~

Sec. 82. Sections two hundred twenty-four point five (224.5), two hundred twenty-five point thirty-one (225.31), two hundred twenty-five point thirty-six (225.36), two hundred twenty-five point thirty-seven (225.37), two hundred twenty-five point thirty-eight (225.38), two hundred twenty-five point thirty-nine (225.39), two hundred twenty-five point forty (225.40), two hundred twenty-five point forty-one (225.41), two hundred twenty-five point forty-two (225.42), two hundred twenty-six point twenty (226.20), two hundred

twenty-six point twenty-one (226.21), two hundred twenty-six point twenty-four (226.24), two hundred twenty-six point twenty-five (226.25), chapter two hundred twenty-eight (228), and sections two hundred twenty-nine point thirty-nine (229.39) and two hundred twenty-nine point forty (229.40), Code 1975, are repealed.

Sec. 83. This Act shall be effective January 1, 1976.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 499, Sixty-sixth General Assembly.

CLARK R. RASMUSSEN
Secretary of the Senate

Approved June 16, 1975

ROBERT D. RAY
Governor