

CHAPTER 139

HOSPITALIZATION OF THE MENTALLY ILL

S. F. 499

AN ACT relating to hospitalization of the mentally ill.

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

1 SECTION 1. NEW SECTION. **Definitions.** As used in this Act, un-
 2 less the context clearly requires otherwise:

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

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

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

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

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

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

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

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

33 7. "Qualified mental health professional" means an individual experi-
 34 enced in the study and treatment of mental disorders in the capacity
 35 of:

36 a. A psychologist certified under chapter one hundred fifty-four B
 37 (154B) of the Code; or

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

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

42 8. "Public hospital" means:

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

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

47 c. Any other publicly supported hospital or institution, or part
 48 thereof, which is equipped and staffed to provide inpatient care to the
 49 mentally ill, except that this definition shall not be applicable to the

50 Iowa security medical facility established by chapter two hundred
51 twenty-three (223) of the Code.

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

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

56 11. "Chief medical officer" means the medical director in charge of
57 any public hospital, or any private hospital, or that individual's physi-
58 cian-designee. Nothing in this Act shall negate the authority otherwise
59 reposed by law in the respective superintendents of each of the state
60 hospitals for the mentally ill, established by chapter two hundred
61 twenty-six (226) of the Code, to make decisions regarding the appropri-
62 ateness of admissions or discharges of patients of that hospital, how-
63 ever it is the intent of this Act that if the superintendent is not a
64 licensed physician he shall be guided in these decisions by the chief
65 medical officer of that hospital.

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

1 **SEC. 2. NEW SECTION. Application for voluntary admission—au-**
2 **thority to receive voluntary patients.**

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

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

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

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

1 **SEC. 3. NEW SECTION. Discharge of voluntary patients.** Any
2 voluntary patient who has recovered, or whose hospitalization the chief
3 medical officer of the hospital determines is no longer advisable, shall
4 be discharged. Any voluntary patient may be discharged if to do so
5 would in the judgment of the chief medical officer contribute to the
6 most effective use of the hospital in the care and treatment of that pa-
7 tient and of other mentally ill persons.

1 **SEC. 4. NEW SECTION. Right to release on application.** A vol-
2 untary patient who requests his or her release or whose release is re-
3 quested, in writing, by his or her legal guardian, parent, spouse or
4 adult next-of-kin shall be released from the hospital forthwith, except
5 that:

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

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

15 3. If the chief medical officer of the hospital, not later than the end
 16 of the next secular day on which the office of the clerk of the district
 17 court for the county in which the hospital is located is open and which
 18 follows the submission of the written request for release of the patient,
 19 files with that clerk a certification that in the chief medical officer's
 20 opinion the patient is seriously mentally impaired, the release may be
 21 postponed for the period of time the court determines is necessary to
 22 permit commencement of judicial procedure for involuntary hospitali-
 23 zation. That period of time may not exceed five days, exclusive of
 24 days on which the clerk's office is not open unless the period of time is
 25 extended by order of a district court judge for good cause shown. Until
 26 disposition of the application for involuntary hospitalization of the pa-
 27 tient, if one is timely filed, the chief medical officer may detain the
 28 patient in the hospital and may provide treatment which is necessary
 29 to preserve his or her life, or to appropriately control behavior by the
 30 patient which is likely to result in physical injury to himself or herself
 31 or to others if allowed to continue, but may not otherwise provide
 32 treatment to the patient without the patient's consent.

1 **SEC. 5. NEW SECTION. Departure without notice.** If a voluntary
 2 patient departs from the hospital without notice, and in the opinion of
 3 the chief medical officer the patient is seriously mentally impaired, the
 4 chief medical officer may file an application for involuntary hospitali-
 5 zation of the departed voluntary patient, and request that an order for
 6 immediate custody be entered by the court pursuant to section eleven
 7 (11) of this Act.

1 **SEC. 6. NEW SECTION. Application for order of involuntary hos-**
 2 **pitalization.** Proceedings for the involuntary hospitalization of an
 3 individual may be commenced by any interested person by filing a ver-
 4 ified application with the clerk of the district court of the county where
 5 the respondent is presently located, or which is the respondent's place
 6 of residence. The clerk, or his or her designee, shall assist the applicant
 7 in completing the application. The application shall:

- 8 1. State the applicant's belief that the respondent is seriously men-
 9 tally impaired.
- 10 2. State any other pertinent facts.
- 11 3. Be accompanied by:
 - 12 a. A written statement of a licensed physician in support of the ap-
 13 plication; or
 - 14 b. One or more supporting affidavits otherwise corroborating the ap-
 15 plication; or
 - 16 c. Corroborative information obtained and reduced to writing by the
 17 clerk or his or her designee, but only when circumstances make it in-
 18 feasible to comply with, or when the clerk considers it appropriate to
 19 supplement the information supplied pursuant to, either paragraph a
 20 or paragraph b of this subsection.

1 **SEC. 7. NEW SECTION. Service of notice upon respon-**
 2 **dent.** Upon the filing of an application for involuntary hospitaliza-
 3 tion, the clerk shall docket the case and immediately notify a district
 4 court judge who shall review the application and accompanying docu-

5 mentation. If the application is adequate as to form, the judge may set
6 a time and place for a hearing on the application, if feasible, and shall
7 direct the clerk to send copies of the application and supporting docu-
8 mentation, together with a notice informing the respondent of the pro-
9 cedures required by this Act, to the sheriff or his or her deputy for
10 immediate service upon the respondent. If the respondent is taken into
11 custody under section eleven (11) of this Act, service of the application,
12 documentation and notice upon the respondent shall be made at the
13 time he or she is taken into custody.

1 **SEC. 8. NEW SECTION. Procedure after application is filed.** As
2 soon as practicable after the filing of an application for involuntary
3 hospitalization, the court shall:

4 1. Determine whether the respondent has an attorney who is able
5 and willing to represent him or her in the hospitalization proceeding,
6 and if not, whether the respondent is financially able to employ an at-
7 torney and capable of meaningfully assisting in selecting one. In accord-
8 ance with those determinations, the court shall if necessary allow the
9 respondent to select, or shall assign to him or her, an attorney. If the
10 respondent is financially unable to pay an attorney, the attorney shall
11 be compensated in substantially the manner provided by sections seven
12 hundred seventy-five point five (775.5) and seven hundred seventy-five
13 point six (775.6) of the Code, except that if the county has a public de-
14 fender the court may designate the public defender or an attorney on
15 his or her staff to act as the respondent's attorney.

16 2. Cause copies of the application and supporting documentation to
17 be sent to the county attorney or his or her attorney-designate for re-
18 view.

19 3. Issue a written order which shall:

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

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

1 **SEC. 9. NEW SECTION. Respondent's attorney informed.** The
2 court shall direct the clerk to furnish at once to the respondent's attor-
3 ney copies of the application for involuntary hospitalization of the re-
4 spondent and the supporting documentation, and of the court's order
5 issued pursuant to section eight (8), subsection three (3) of this Act. If
6 the respondent is taken into custody under section eleven (11) of this
7 Act, the attorney shall also be advised of that fact. The respondent's
8 attorney shall represent the respondent at all stages of the proceedings,
9 and shall attend the hospitalization hearing.

1 **SEC. 10. NEW SECTION. Physicians' examination—report.**

2 1. An examination of the respondent shall be conducted by one or
3 more licensed physicians, as required by the court's order, within a rea-
4 sonable time. If the respondent is taken into custody under section
5 eleven (11) of this Act, the examination shall be conducted within
6 twenty-four hours. If the respondent so desires, he or she shall be enti-
7 tled to a separate examination by a licensed physician of his or her
8 own choice. The reasonable cost of such separate examination shall, if
9 the respondent lacks sufficient funds to pay the cost, be paid from
10 county funds upon order of the court.

11 Any licensed physician conducting an examination pursuant to this
12 section may consult with or request the participation in the examina-
13 tion of any qualified mental health professional, and may include with

14 or attach to the written report of the examination any findings or ob-
 15 servations by any qualified mental health professional who has been so
 16 consulted or has so participated in the examination.

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

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

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

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

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

1 SEC. 11. NEW SECTION. **Judge may order immediate custo-**
 2 **dy.** If the applicant requests that the respondent be taken into imme-
 3 diate custody and the judge, upon reviewing the application and
 4 accompanying documentation, finds probable cause to believe that the
 5 respondent is seriously mentally impaired and is likely to injure him-
 6 self or herself or other persons if allowed to remain at liberty, the
 7 judge may enter a written order directing that the respondent be taken
 8 into immediate custody by the sheriff or his or her deputy and be de-
 9 tained until the hospitalization hearing, which shall be held no more
 10 than five days after the date of the order. The judge may order the re-
 11 spondent detained for that period of time, and no longer, in accord-
 12 dance with subsection one (1) of this section if possible, and if not then
 13 in accordance with subsection two (2) of this section or, only if neither
 14 of these alternatives are available, in accordance with subsection three
 15 (3) of this section. Detention may be:

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

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

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

1 **SEC. 12. NEW SECTION. Hearing procedure.** At the hospitaliza-
2 tion hearing, evidence in support of the contentions made in the appli-
3 cation shall be presented by the county attorney. During the hearing
4 the applicant and the respondent shall be afforded an opportunity to
5 testify and to present and cross-examine witnesses, and the court may
6 receive the testimony of any other interested person. The respondent
7 has the right to be present at the hearing. If the respondent exercises
8 that right and has been medicated within twelve hours, or such longer
9 period of time as the court may designate, prior to the beginning of
10 the hearing or an adjourned session thereof, the judge shall be in-
11 formed of that fact and of the probable effects of the medication upon
12 convening of the hearing. All persons not necessary for the conduct of
13 the proceeding shall be excluded, except that the court may admit per-
14 sons having a legitimate interest in the proceeding. The respondent's
15 welfare shall be paramount and the hearing shall be conducted in as
16 informal a manner as may be consistent with orderly procedure, but
17 consistent therewith the issue shall be tried as a civil matter. Such dis-
18 covery as is permitted under the Iowa rules of civil procedure shall be
19 available to the respondent. The court shall receive all relevant and
20 material evidence which may be offered and need not be bound by the
21 rules of evidence. There shall be a presumption in favor of the respon-
22 dent, and the burden of evidence in support of the contentions made
23 in the application shall be upon the applicant. If upon completion of
24 the hearing the court finds that the contention that the respondent is
25 seriously mentally impaired has not been sustained by clear and con-
26 vincing evidence, it shall deny the application and terminate the pro-
27 ceeding.

1 **SEC. 13. NEW SECTION. Hospitalization for evaluation.** If upon
2 completion of the hearing the court finds that the contention that the
3 respondent is seriously mentally impaired has been sustained by clear
4 and convincing evidence, it shall order the respondent placed in a hos-
5 pital as expeditiously as possible for a complete psychiatric evaluation
6 and appropriate treatment. The court shall furnish to the hospital at
7 the time the respondent arrives there a written finding of fact setting
8 forth the evidence on which the finding is based. The chief medical of-
9 ficer of the hospital shall report to the court no more than fifteen days
10 after the individual is admitted to the hospital, making a recommen-
11 dation for disposition of the matter. An extension of time may be
12 granted for not to exceed seven days upon a showing of cause. A copy
13 of the report shall be sent to the respondent's attorney, who may con-
14 test the need for an extension of time if one is requested. Extension of
15 time shall be granted upon request unless the request is contested, in
16 which case the court shall make such inquiry as it deems appropriate
17 and may either order the respondent's release from the hospital or
18 grant extension of time for psychiatric evaluation.

1 **SEC. 14. NEW SECTION. Chief medical officer's report.** The
2 chief medical officer's report to the court on the psychiatric evaluation
3 of the respondent shall be made not later than the expiration of the
4 time specified in section thirteen (13) of this Act. At least two copies of
5 the report shall be filed with the clerk, who shall dispose of them in
6 the manner prescribed by section ten (10), subsection two (2) of this
7 Act. The report shall state one of the four following alternative find-
8 ings:

9 1. That the respondent does not, as of the date of the report, require
10 further treatment for serious mental impairment. If the report so

11 states, the court shall order the respondent's immediate release from
12 involuntary hospitalization and terminate the proceedings.

13 2. That the respondent is seriously mentally impaired and in need
14 of full-time custody, care and treatment in a hospital, and is consid-
15 ered likely to benefit from treatment. If the report so states, the court
16 may order the respondent's continued hospitalization for appropriate
17 treatment.

18 3. That the respondent is seriously mentally impaired and in need
19 of treatment, but does not require full-time hospitalization. If the re-
20 port so states it shall include the chief medical officer's recommenda-
21 tion for treatment of the respondent on an outpatient or other
22 appropriate basis, and the court may enter an order directing the re-
23 spondent to submit to the recommended treatment. The order shall
24 provide that if the respondent fails or refuses to submit to treatment as
25 directed by the court's order, he or she shall be taken into custody and
26 treated as a patient requiring full-time custody, care and treatment in
27 a hospital until such time as the chief medical officer reports that the
28 respondent does not require further treatment for serious mental im-
29 pairment or has indicated he or she is willing to submit to treatment
30 on another basis as ordered by the court.

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

1 **SEC. 15. NEW SECTION. Periodic reports required.**

2 1. Not more than thirty days after entry of an order for continued
3 hospitalization of a patient under subsection two (2) of section fourteen
4 (14) of this Act, and thereafter at successive intervals of not more than
5 sixty days continuing so long as involuntary hospitalization of the pa-
6 tient continues, the chief medical officer of the hospital shall report to
7 the court which entered the order. The report shall be submitted in the
8 manner required by section fourteen (14) of this Act, shall state wheth-
9 er the patient's condition has improved, remains unchanged, or has de-
10 teriorated, and shall indicate if possible the further length of time the
11 patient will be required to remain at the hospital. The chief medical
12 officer may at any time report to the court a finding as stated in sub-
13 section four (4) of section fourteen (14) of this Act, and the court shall
14 act thereon as required by that section.

15 2. Not more than sixty days after the entry of a court order for
16 treatment of a patient under subsection three (3) of section fourteen
17 (14) of this Act, and thereafter at successive intervals as ordered by the
18 court but not to exceed ninety days so long as that court order remains
19 in effect, the medical director of the facility treating the patient shall
20 report to the court which entered the order. The report shall state
21 whether the patient's condition has improved, remains unchanged, or
22 has deteriorated, and shall indicate if possible the further length of
23 time the patient will require treatment by the facility. If at any time
24 the patient without good cause fails or refuses to submit to treatment
25 as ordered by the court, the medical director shall at once so notify the
26 court, which shall order the patient hospitalized as provided by section
27 fourteen (14), subsection three (3) of this Act unless the court finds that
28 the failure or refusal was with good cause and that the patient is will-

29 ing to receive treatment as provided in the court's order, or in a revised
30 order if the court sees fit to enter one. If the medical director at any
31 time reports to the court that in his opinion the patient requires full-
32 time custody, care and treatment in a hospital, the court may order
33 the patient's involuntary hospitalization for appropriate treatment
34 upon consultation with the chief medical officer of the hospital in
35 which the patient is to be hospitalized.

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

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

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

1 **SEC. 16. NEW SECTION. Discharge and termination of proceed-**
2 **ing.** When in the opinion of the chief medical officer a patient who is
3 hospitalized under subsection two (2), or is receiving treatment under
4 subsection three (3), or is in full-time care and custody under subsec-
5 tion four (4) of section fourteen (14) of this Act no longer requires treat-
6 ment or care for serious mental impairment, the chief medical officer
7 shall tentatively discharge the patient and immediately report that
8 fact to the court which ordered the patient's hospitalization or care and
9 custody. The court shall thereupon issue an order confirming the pa-
10 tient's discharge from the hospital or from care and custody, as the
11 case may be, and shall terminate the proceedings pursuant to which
12 the order was issued. Copies of the order shall be sent by certified mail
13 to the hospital and the patient.

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

1 SEC. 18. NEW SECTION. **Status of respondent if hospitalization is**
2 **delayed.** When the court directs that a respondent who was previous-
3 ly ordered taken into immediate custody under section eleven (11) of
4 this Act be placed in a hospital for psychiatric evaluation and appro-
5 priate treatment under section thirteen (13) of this Act, and no suitable
6 hospital can immediately admit the respondent, the respondent shall
7 remain in custody as previously ordered by the court, the time limit
8 stated in section eleven (11) notwithstanding, until a suitable hospital
9 can admit the respondent. The court shall take appropriate steps to ex-
10 pedite the admission of the respondent to a suitable hospital at the
11 earliest feasible time.

1 SEC. 19. NEW SECTION. **Advocate appointed.** The district court
2 in each county shall appoint an individual who has demonstrated by
3 prior activities an informed concern for the welfare and rehabilitation
4 of the mentally ill, and who is not an officer or employee of the de-
5 partment of social services nor of any agency or facility providing care
6 or treatment to the mentally ill, to act as advocate representing the in-
7 terests of all patients involuntarily hospitalized by that court, in any
8 matter relating to the patients' hospitalization or treatment under sec-
9 tions fourteen (14) or fifteen (15) of this Act. The advocate's responsi-
10 bility with respect to any patient shall begin at whatever time the
11 attorney employed or appointed to represent that patient as respon-
12 dent in hospitalization proceedings, conducted under sections six (6)
13 through thirteen (13) of this Act, reports to the court that his or her ser-
14 vices are no longer required and requests the court's approval to with-
15 draw as counsel for that patient. The clerk shall furnish the advocate
16 with a copy of the court's order approving the withdrawal. The advo-
17 cate's duties shall include reviewing each report submitted pursuant to
18 sections fourteen (14) and fifteen (15) of this Act concerning any pa-
19 tient whose interests, as a patient, the advocate is required to represent
20 under this section, and if the advocate is not an attorney, advising the
21 court at any time it appears that the services of an attorney are re-
22 quired to properly safeguard the patient's interests. The court shall
23 from time to time prescribe reasonable compensation for the services of
24 the advocate. Such compensation shall be based upon reports filed by
25 the advocate at such times and in such forms as the court shall pre-
26 scribe. The report shall briefly state what the advocate has done with
27 respect to each patient and the amount of time spent. The advocate's
28 compensation shall be paid on order of the court from the county men-
29 tal health and institutions fund of the county in which the court is lo-
30 cated.

1 SEC. 20. NEW SECTION. **Respondents charged with or convicted**
2 **of crime.**

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

11 2. When a proceeding under section six (6) and succeeding sections of
12 this Act arises under sections seven hundred eighty-three point five
13 (783.5) or seven hundred eighty-nine point eight (789.8) of the Code,
14 and the respondent through his attorney waives the hearing otherwise
15 required by section twelve (12) of this Act, the court may immediately

16 order the respondent placed in a hospital for a complete psychiatric
 17 evaluation and appropriate treatment pursuant to section thirteen (13)
 18 of this Act. In such cases, the court may in its discretion order or waive
 19 the physician's examination otherwise required under section ten (10)
 20 of this Act.

1 SEC. 21. NEW SECTION. **Judicial hospitalization referee.**

2 1. As soon as practicable after the adoption of this Act the judges in
 3 each judicial district shall meet and shall determine, individually for
 4 each county in the district, whether it appears that one or more district
 5 judges will be sufficiently accessible in that county to make it feasible
 6 for them to perform at all times the duties prescribed by sections seven
 7 (7) through twenty (20) of this Act and by chapter two hundred twenty-
 8 four (224) of the Code. If the judges find that accessibility of district
 9 court judges in any county is not sufficient for this purpose, the chief
 10 judge of the district shall appoint in that county a judicial hospitaliza-
 11 tion referee. The judges in any district may at any time review their
 12 determination, previously made under this subsection with respect to
 13 any county in the district, and pursuant to that review may authorize
 14 appointment of a judicial hospitalization referee, or abolish the office,
 15 in that county.

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

25 3. When an application for involuntary hospitalization is filed with
 26 the clerk of the district court in any county for which a judicial hospi-
 27 talization referee has been appointed, and no district judge is accessi-
 28 ble in the county, the clerk shall immediately notify the referee in the
 29 manner required by section seven (7) of this Act. The referee shall
 30 thereupon discharge all of the duties imposed upon judges of the dis-
 31 trict court by sections seven (7) through twenty (20) of this Act in the
 32 proceeding so initiated. Upon termination of the proceeding or issu-
 33 ance of an order under section thirteen (13) of this Act, the referee
 34 shall transmit either to the chief judge, or another judge of the district
 35 court designated by the chief judge, a statement of the reasons for the
 36 referee's action and a copy of any order issued.

37 4. Any respondent with respect to whom the judicial hospitalization
 38 referee has found the contention that he or she is seriously mentally
 39 impaired sustained by clear and convincing evidence presented at a
 40 hearing held under section twelve (12) of this Act, may appeal from the
 41 referee's finding to a judge of the district court by giving the clerk no-
 42 tice in writing, within seven days after the referee's finding is made,
 43 that an appeal therefrom is taken. The appeal may be signed by the
 44 respondent or by the respondent's next friend, guardian or attorney.
 45 When so appealed, the matter shall stand for trial de novo. Upon ap-
 46 peal, the court shall schedule a hospitalization hearing before a district
 47 judge at the earliest practicable time.

48 5. If the appellant is in custody under the jurisdiction of the district
 49 court at the time of service of the notice of appeal, he or she shall be
 50 discharged from custody unless an order that the appellant be taken
 51 into immediate custody has previously been issued under section elev-

52 en (11) of this Act, in which case the appellant shall be detained as
53 provided in that section until the hospitalization hearing before the
54 district judge. If the appellant is in the custody of a hospital at the
55 time of service of the notice of appeal, he or she shall be discharged
56 from custody pending disposition of the appeal unless the chief medi-
57 cal officer, not later than the end of the next secular day on which the
58 office of the clerk is open and which follows service of the notice of ap-
59 peal, files with the clerk a certification that in the chief medical offi-
60 cer's opinion the appellant is seriously mentally ill. In that case, the
61 appellant shall remain in custody of the hospital until the hospitaliza-
62 tion hearing before the district court.

63 6. The hospitalization hearing before the district judge shall be held,
64 and the judge's finding shall be made and an appropriate order en-
65 tered, as prescribed by sections twelve (12) and thirteen (13) of this Act.
66 If the judge orders the appellant hospitalized for a complete psychiat-
67 ric evaluation, jurisdiction of the matter shall revert to the judicial
68 hospitalization referee.

1 **SEC. 22. NEW SECTION. Hospitalization—emergency procedure.**

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

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

36 3. The chief medical officer of the hospital shall examine and may
37 detain and care for the person taken into custody under the magis-
38 trate's order for a period not to exceed forty-eight hours, excluding
39 Saturdays, Sundays and holidays. The hospital may provide treatment

40 which is necessary to preserve the person's life, or to appropriately control
 41 behavior by the person which is likely to result in physical injury
 42 to himself or herself or others if allowed to continue, but may not otherwise
 43 provide treatment to the person without his or her consent. The
 44 person shall be discharged from the hospital and released from custody
 45 not later than the expiration of that period, unless an application for
 46 his or her involuntary hospitalization is sooner filed with the clerk pursuant
 47 to section six (6) of this Act. The detention of any person by the
 48 procedure and not in excess of the period of time prescribed by this section
 49 shall not render the peace officer, physician or hospital so detaining
 50 that person liable in a criminal or civil action for false arrest or
 51 false imprisonment if the peace officer, physician or hospital had reasonable
 52 grounds to believe the person so detained was mentally ill and
 53 likely to physically injure himself or herself or others if not immediately
 54 detained.

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

1 **SEC. 23. NEW SECTION. Rights and privileges of hospitalized**
 2 **persons.** Every person who is hospitalized or detained under this Act
 3 shall have the right to:

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

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

9 3. In addition to protection of his constitutional rights, enjoyment
 10 of other legal, medical, religious, social, political, personal and work-
 11 ing rights and privileges which he would enjoy if he were not so hospital-
 12 ized or detained, so far as is possible consistent with effective
 13 treatment of that person and of the other patients of the hospital. If
 14 the patient's rights are restricted, the physician's direction to that effect
 15 shall be noted on the patient's record. The department of social
 16 services shall, in accordance with chapter seventeen A (17A) of the
 17 Code establish rules setting forth the specific rights and privileges to
 18 which persons so hospitalized or detained are entitled under this section,
 19 and the exceptions provided by section seventeen A point two
 20 (17A.2), subsection seven (7), paragraphs a and k, shall not be applica-
 21 ble to the rules so established. The patient or his or her next-of-kin or
 22 friend shall be advised of these rules and be provided a written copy
 23 upon the patient's admission to or arrival at the hospital.

1 **SEC. 24. NEW SECTION. Records of involuntary hospitalization**
 2 **proceeding to be confidential.**

3 1. All papers and records pertaining to any involuntary hospitaliza-
 4 tion or application for involuntary hospitalization of any person under
 5 this Act, whether part of the permanent record of the court or of a file
 6 in the department of social services, are subject to inspection only
 7 upon an order of the court for good cause shown. Nothing in this section
 8 shall prohibit a hospital from complying with the requirements of
 9 this Act and of chapter two hundred thirty (230) of the Code relative to
 10 financial responsibility for the cost of care and treatment provided a
 11 patient in that hospital, nor from properly billing any responsible rela-
 12 tive or third-party payer for such care and treatment.

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

1 SEC. 25. NEW SECTION. **Medical records to be confidential—ex-**
 2 **ceptions.** The records maintained by a hospital relating to the exam-
 3 ination, custody, care and treatment of any person in that hospital
 4 pursuant to this Act shall be confidential, except that the chief medical
 5 officer may release appropriate information when:

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

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

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

15 4. The person who is hospitalized or that person's guardian, if the
 16 person is a minor or is not legally competent to do so, signs an infor-
 17 mal consent to release information. Each signed consent shall desig-
 18 nate specifically the person or agency to whom the information is to be
 19 sent, and the information may be sent only to that person or agency.

1 SEC. 26. NEW SECTION. **Exclusive procedure for involuntary**
 2 **hospitalization.** Sections six (6) through twenty (20), inclusive, of
 3 this Act shall constitute the exclusive procedure for involuntary hospi-
 4 talization of persons by reason of serious mental impairment in this
 5 state, except that nothing in this Act shall negate the provisions of sec-
 6 tions two hundred forty-five point twelve (245.12) and two hundred forty-
 7 six point sixteen (246.16) of the Code relative to transfer of mentally
 8 ill prisoners to state hospitals for the mentally ill.

1 SEC. 27. NEW SECTION. **Hospitalization not to equate with in-**
 2 **competency—procedure for finding incompetency due to mental**
 3 **illness.**

4 1. Hospitalization of any person under this Act, either voluntarily
 5 or involuntarily, shall not be deemed to constitute a finding of or to
 6 equate with nor raise a presumption of incompetency, or to cause the
 7 person so hospitalized to be deemed a lunatic, a person of unsound
 8 mind, or a person under legal disability for any purpose including but
 9 not limited to any circumstances to which sections four hundred forty-
 10 seven point seven (447.7), four hundred seventy-two point fifteen
 11 (472.15), five hundred forty-five point two (545.2), subsection thirteen
 12 (13), five hundred forty-five point eleven (545.11), subsection seven (7),
 13 five hundred forty-five point thirty-six (545.36), five hundred sixty-
 14 seven point seven (567.7), five hundred ninety-five point three (595.3),
 15 five hundred ninety-seven point six (597.6), five hundred ninety-eight
 16 point twenty-nine (598.29), six hundred fourteen point eight (614.8), six
 17 hundred fourteen point nineteen (614.19), six hundred fourteen point
 18 twenty-two (614.22), six hundred fourteen point twenty-four (614.24),
 19 six hundred fourteen point twenty-seven (614.27), six hundred twenty-
 20 two point six (622.6), six hundred thirty-three point two hundred forty-
 21 four (633.244), six hundred thirty-three point two hundred sixty-six
 22 (633.266), subsection four (4), and six hundred seventy-five point
 23 twenty-one (675.21) of the Code are applicable.

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

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

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

46 b. A person previously found incompetent by reason of mental ill-
 47 ness under subsection two (2) of this section petitions the court for a
 48 finding that he or she is no longer incompetent and, after notice to the
 49 applicant who initiated the petition for hospitalization of the person
 50 and to any other party as directed by the court, an objection is filed
 51 with the court. The court may order a hearing on its own motion be-
 52 fore acting on a petition filed under this paragraph. A petition by a
 53 person for a finding that he or she is no longer incompetent may be
 54 filed at any time without regard to whether the person is at that time
 55 hospitalized for treatment of mental illness.

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

64 5. Nothing in this Act shall preclude use of any other procedure au-
 65 thorized by law for declaring any person legally incompetent for rea-
 66 sons which may include mental illness, without regard to whether that
 67 person is or has been hospitalized for treatment of mental illness.

1 SEC. 28. NEW SECTION. **Hospitalization in certain federal facili-**
 2 **ties.** When a court finds that the contention that a respondent is seri-
 3 ously mentally impaired has been sustained or proposes to order
 4 continued hospitalization of any person, or an alternative placement,
 5 under section fourteen (14), subsection two (2) or four (4) of this Act,
 6 and the court is furnished evidence that the respondent or patient is el-
 7 igible for care and treatment in a facility operated by the veterans ad-
 8 ministration or another agency of the United States government and
 9 that the facility is willing to receive the respondent or patient, the
 10 court may so order. The respondent or patient, when so hospitalized or
 11 placed in a facility operated by the veterans administration or another
 12 agency of the United States government within or outside of this state,
 13 shall be subject to the rules of the veterans administration or other

14 agency, but shall not thereby lose any procedural rights afforded the
 15 respondent or patient by this Act. The chief officer of the facility shall
 16 have, with respect to the person so hospitalized or placed, the same
 17 powers and duties as the chief medical officer of a hospital in this state
 18 would have in regard to submission of reports to the court, retention of
 19 custody, transfer, convalescent leave or discharge. Jurisdiction is re-
 20 tained in the court to maintain surveillance of the person's treatment
 21 and care, and at any time to inquire into that person's mental condi-
 22 tion and the need for continued hospitalization or care and custody.

1 **SEC. 29. NEW SECTION. Transfer to certain federal facili-**
 2 **ties.** Upon receipt of a certificate stating that any person involuntari-
 3 ly hospitalized under this Act is eligible for care and treatment in a
 4 facility operated by the veterans administration or another agency of
 5 the United States government which is willing to receive the person
 6 without charge to the state of Iowa or any county in the state, the
 7 chief medical officer may transfer the person to that facility. Upon so
 8 doing, the chief medical officer shall notify the court which ordered
 9 the person's hospitalization in the same manner as would be required
 10 in the case of a transfer under section fifteen (15), subsection four (4) of
 11 this Act, and the person transferred shall be entitled to the same rights
 12 as he or she would have under that subsection. No person shall be
 13 transferred under this section who is confined pursuant to conviction of
 14 a public offense or whose hospitalization was ordered upon contention
 15 of incompetence to stand trial by reason of mental illness, without
 16 prior approval of the court which ordered that person's hospitalization.

1 **SEC. 30. NEW SECTION. Orders of courts in other states.** A
 2 judgment or order of hospitalization or commitment by a court of com-
 3 petent jurisdiction of another state or the District of Columbia, under
 4 which any person is hospitalized or placed in a facility operated by the
 5 veterans administration or another agency of the United States govern-
 6 ment, shall have the same force and effect with respect to that person
 7 while he or she is in this state as the judgment or order would have if
 8 the person were in the jurisdiction of the court which issued it. That
 9 court shall be deemed to have retained jurisdiction of the person so
 10 hospitalized or placed for the purpose of inquiring into that person's
 11 mental condition and the need for continued hospitalization or care
 12 and custody, as do courts in this state under section twenty-eight (28)
 13 of this Act. Consent is hereby given to the application of the law of
 14 the state or district in which is situated the court which issued the
 15 judgment or order as regards authority of the chief officer of any facil-
 16 ity, operated in this state by the veterans administration or another
 17 agency of the United States government, to retain custody, transfer,
 18 place on convalescent leave or discharge the person so hospitalized or
 19 committed.

1 **SEC. 31.** Sections two hundred twenty-nine point one (229.1)
 2 through two hundred twenty-nine point thirty (229.30), inclusive, Code
 3 1975, are repealed and sections one (1) through thirty (30) of this Act
 4 adopted in lieu thereof.

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

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

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

3 **48.30 Notification of changes in registration.** The clerk of the
4 district court shall promptly notify the county commissioner of regis-
5 tration of changes of name and of convictions of infamous crimes or
6 felonies, of legal declarations of ~~mental~~ incompetence *made after a*
7 *proceeding held pursuant to section twenty-seven (27) of this Act,*
8 and of diagnosis of severe or profound mental retardation, ~~or of severe~~
9 ~~psychiatric illness~~ of persons of voting age. The clerk of the district
10 court shall also notify the county commissioner of registration of the
11 restoration of citizenship of a person who has been convicted of an in-
12 famous crime or felony and of the finding that a person is of good
13 mental health. The notice will not restore voter registration. The coun-
14 ty commissioner of registration shall notify the person whose citizen-
15 ship has been restored or who has been declared to be in good mental
16 health that his registration to vote was canceled and he must register
17 again to become a qualified elector.

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

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

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

3 2. The directors of such state institutions are authorized to provide
4 services and facilities for the scientific observation, rechecking and
5 treatment of mentally ill persons within the state. Application by, or
6 on behalf of, any person for such services and facilities shall be made
7 to the director in charge of the particular institution involved and shall
8 be made on forms furnished by such director. The time and place of
9 admission of any person to outpatient or clinical services and facilities
10 for scientific observation, rechecking and treatment and the use of such
11 services and facilities for the benefit of persons who have already been
12 ~~committed hospitalized for psychiatric evaluation and appropriate~~
13 ~~treatment or involuntarily hospitalized~~ as seriously mentally ill
14 shall be in accordance with rules and regulations adopted by the direc-
15 tor in control of the particular institution involved.

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

3 **218.92 Dangerous mental patients.** Whenever a patient in any
4 state hospital-school for the mentally retarded, any mental health in-
5 stitute, or any institution under the administration of the director of
6 the division of mental health of the department of social services, has
7 become so mentally disturbed as to constitute a danger to self, to other
8 patients in the institution or to the public, and the institution involved

9 cannot provide adequate security, the director of ~~such institution~~ *men-*
 10 *tal health* with the consent of the director of corrections of the depart-
 11 ment of social services may order the patient to be transferred to the
 12 Iowa security medical facility, provided that the executive head of the
 13 institution ~~involved~~ *from which the patient is to be transferred*, with
 14 the support of a majority of his medical staff, recommends the transfer
 15 in the interest of the patient, other patients or the public. ~~The order of~~
 16 ~~the director of the division of mental health shall have the same force~~
 17 ~~and effect as a warrant of commitment for mental illness.~~ *If the pa-*
 18 *tient transferred was hospitalized pursuant to sections six (6)*
 19 *through fifteen (15) of this Act, the transfer shall be promptly re-*
 20 *ported to the court which hospitalized the patient, as required by*
 21 *section fifteen (15), subsection three (3), of this Act. The Iowa secu-*
 22 *rity medical facility shall have the same rights, duties and responsi-*
 23 *bilities with respect to the patient as the institution from which the*
 24 *patient was transferred had while the patient was hospitalized*
 25 *there. The cost of the transfer shall be paid from the funds of the insti-*
 26 *tution from which the transfer is made.*

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

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

1 SEC. 38. Section two hundred twenty-two point seven (222.7), Code
 2 1975, is amended to read as follows:

3 **222.7 Transfers.** The state director may transfer patients from
 4 one state hospital-school to the other and may at any time transfer
 5 any patient from the hospital-schools to the hospitals for the mentally
 6 ill, or ~~from the latter to the former~~, transfer patients in the hospital-
 7 schools to a special unit or vice versa, or make such transfers as are per-
 8 mitted in section 218.92. *The state director may also transfer patients*
 9 *from a hospital for the mentally ill to a hospital-school if:*

10 1. *In the case of a patient who entered the hospital for the men-*
 11 *tally ill voluntarily, consent is given in advance by the patient or, if*
 12 *the patient is a minor or is incompetent, the person responsible for*
 13 *the patient.*

14 2. *In the case of a patient hospitalized pursuant to sections six*
 15 *(6) through fifteen (15) of this Act, the consent of the court which*
 16 *hospitalized the patient is obtained in advance, rather than after-*
 17 *ward as otherwise permitted by section fifteen (15), subsection three*
 18 *(3) of this Act.*

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

3 **222.55 Procedure as mentally ill person.** If it appears at any
 4 time that a person has under the provisions of this chapter been placed
 5 under guardianship or committed to a private institution and should
 6 be ~~committed to~~ *evaluated and treated in a hospital for the mentally*
 7 *ill, the person may be proceeded against hospitalized under any of the*
 8 *chapters relating to the mentally ill provisions of sections two (2)*
 9 *through fifteen (15) of this Act.*

1 SEC. 40. Section two hundred twenty-three point eight (223.8), un-
 2 numbered paragraph one (1), Code 1975, is amended to read as fol-
 3 lows:

4 Chapter 230 shall govern the determination of the costs and charges
 5 for the care and treatment of mentally ill patients admitted to the
 6 Iowa security medical facility as direct civil commitments upon author-
 7 ization of ~~a county hospitalization commission~~ *the district court, or as*
 8 persons having no legal settlement in this state. The charge for the cost
 9 of other admittees shall be as follows:

1 SEC. 41. Section two hundred twenty-four point one (224.1), Code
 2 1975, is amended to read as follows:

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

1 SEC. 42. Section two hundred twenty-five point ten (225.10), Code
 2 1975, is amended to read as follows:

3 **225.10 Application for admission—Voluntary public patients.**
 4 Persons suffering from mental diseases may be admitted as ~~committed~~
 5 *voluntary public patients* as follows: Any physician authorized to
 6 practice ~~his profession medicine, osteopathy or osteopathic medicine~~
 7 in the state of Iowa ~~or any citizen of the state~~ may file information
 8 with any district court of the state or with any judge thereof, ~~alleging~~
 9 *stating that the physician has examined the person named therein*
 10 *and finds that the person is suffering from some abnormal mental*
 11 *condition that can probably be remedied by observation, treatment,*
 12 *and hospital care; that the physician believes it would be appropri-*
 13 *ate for the person to enter the state psychopathic hospital for that*
 14 *purpose and that the person is willing to do so; and that he is, of*
 15 ~~himself or through~~ *neither the person nor those legally responsible for*
 16 ~~him, unable~~ *the person are able to provide the means for such observa-*
 17 *tion and hospital care.*

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

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

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

3 **225.12 Examination and Voluntary public patient—physician's**
 4 **report.** ~~Said~~ *A physician filing an information under section two*
 5 *hundred twenty-five point ten (225.10) of the Code shall make in-*

6 *clude a written report to the said judge, giving such a history of the*
 7 *case as will be likely to aid in the observation, treatment, and hospital*
 8 *care of said the person named in the information and describing the*
 9 *same, all in detail, and stating whether or not, in his opinion, the said*
 10 *person would probably be helped by observation, treatment, and hospi-*
 11 *tal care in said state psychopathic hospital. Such report shall be made*
 12 *within such time as may be fixed by the court.*

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

3 **225.13 Financial condition.** It shall be the duty of the said
 4 judge to have a thorough investigation made by the county attorney of
 5 the county in which of residence of the said person resides named in
 6 the information, regarding his the financial condition and the finan-
 7 cial condition of that person and of those legally responsible for him
 8 that person.

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

3 **225.14 Notice—trial Finding and order.** Upon the filing of such
 4 the report or reports, said of a financial investigation made pursu-
 5 ant to an order issued under section two hundred twenty-five point
 6 eleven (225.11) of the Code, the judge of the district court as aforesaid
 7 shall fix a day for the hearing upon the complaint and shall cause the
 8 person or those legally responsible for him to be served with a notice of
 9 the hearing; and he shall also notify the county attorney, who shall
 10 appear and conduct the proceedings, and upon such complaint evi-
 11 dence may be introduced. Upon such hearing the person against whom
 12 the complaint is made shall be entitled to a trial by jury review it and
 13 make a determination in the matter. If the judge or jury finds that
 14 the said person respondent is suffering from an abnormal mental con-
 15 dition which can probably be remedied by observation, medical or
 16 surgical treatment, and hospital care an appropriate subject for refer-
 17 ral to the state psychopathic hospital, and that he, or the respondent
 18 and those legally responsible for him, or her are unable to pay the ex-
 19 penses thereof, said the judge shall enter an order directing that the
 20 said person respondent shall be sent to the state psychopathic hospital
 21 at the state University of Iowa for observation, treatment, and hospital
 22 care as a committed public patient.

1 SEC. 47. Section two hundred twenty-five point fifteen (225.15), un-
 2 numbered paragraph one (1), Code 1975, is amended to read as fol-
 3 lows:

4 **225.15 Examination and treatment.** When the patient respon-
 5 dent arrives at said the state psychopathic hospital it shall be the du-
 6 ty of the director, or of some physician acting for him, to examine the
 7 said patient respondent and determine whether or not, in his the phy-
 8 sician's judgment, he the patient is a fit subject for such observation,
 9 treatment, and hospital care. If, upon said examination, he the physi-
 10 cian decides that such patient should be admitted to the said hospital,
 11 the medical director shall provide him the patient with a proper bed in
 12 said the hospital; and the physician or surgeon who shall have charge
 13 of said the patient shall proceed with such observation, medical or
 14 surgical treatment, and hospital care as in his the physician's judg-
 15 ment are proper and necessary, in compliance with sections thirteen
 16 (13) through sixteen (16) of this Act.

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

3 **225.16 Voluntary public patients—commitment admission.** If
 4 the said judge of the district court, or the clerk of the court, as afore-
 5 said, finds from the physician's report information which was filed un-
 6 der the provisions of section ~~225.12~~ *two hundred twenty-five point ten*
 7 *(225.10) of the Code, that it would be appropriate for the said person*
 8 *is suffering from an abnormal mental condition which can probably be*
 9 *remedied by observation, medical or surgical treatment, and hospital*
 10 *care to enter the state psychopathic hospital, and the report of the*
 11 *county attorney shows that he, or neither the person nor those legally*
 12 *responsible for him, or her are unable able to pay the expenses thereof,*
 13 *said or are able to pay only a part of the expenses, the judge or clerk*
 14 *shall enter an order directing that the said person shall be sent to the*
 15 *state psychopathic hospital at the state University of Iowa for observa-*
 16 *tion, treatment, and hospital care as a voluntary public patient; pro-*
 17 *vided that the said person, or those legally responsible for him, request*
 18 *the said court or judge to commit said person without the hearing*
 19 *which is required under the provisions of section 225.14.*

20 When the said patient arrives at the said hospital, he or she shall re-
 21 ceive the same treatment as is provided for committed public patients
 22 in section 225.15.

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

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

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

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

3 **225.20 Compensation for physician.** The physician appointed
 4 to make making the examination and report on which is based any
 5 information filed under section two hundred twenty-five point ten
 6 (225.10) of the Code shall receive the such sum of five dollars as the
 7 court may direct for each and every examination and report informa-
 8 tion so made, and his actual necessary expenses incurred in making
 9 such investigation examination, in conformity with the requirements
 10 of this chapter, if the person named in the information is referred to
 11 the state psychopathic hospital.

1 SEC. 51. Section two hundred twenty-five point twenty-seven
 2 (225.27), Code 1975, is amended to read as follows:

3 **225.27 Discharge—transfer.** The medical director of the state
 4 psychopathic hospital may, at any time, discharge any patient as re-
 5 covered, as improved, or as not likely to be benefited by further treat-
 6 ment, and upon said discharge said. If the patient being so discharged

7 *was involuntarily hospitalized, the director shall notify the committing*
 8 *judge or court thereof; and the said as required by section four-*
 9 *teen (14), subsection three (3), or section sixteen (16) of this Act,*
 10 *whichever is applicable. The court or judge shall, if necessary, ap-*
 11 *point some person to accompany said the discharged patient from the*
 12 *said state psychopathic hospital to such place as he the director or the*
 13 *court may designate, or authorize the said medical director to appoint*
 14 *such attendant.*

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

3 **225.30 Blanks—audit.** The medical faculty of the hospital of the
 4 college of medicine of the state University of Iowa shall prepare blanks
 5 containing such questions and requiring such information as may be
 6 necessary and proper to be obtained by the physician who examines
 7 ~~the patient under order of court; and such a person or respondent~~
 8 *whose referral to the state psychopathic hospital is contemplated. A*
 9 *judge may request that a physician who examines a respondent as*
 10 *required by section ten (10) of this Act complete such blanks in du-*
 11 *PLICATE in the course of the examination. A physician who proposes*
 12 *to file an information under section two hundred twenty-five point*
 13 *ten (225.10) of the Code shall obtain and complete such blanks in*
 14 *duplicate and file them with the information. The blanks shall be*
 15 *printed by the state and a supply thereof shall be sent to the clerk of*
 16 *each district court of the state. The state comptroller shall audit, al-*
 17 *low, and pay the cost of the blanks as other bills for public printing are*
 18 *allowed and paid.*

1 SEC. 53. Section two hundred twenty-six point nine (226.9), Code
 2 1975, is amended to read as follows:

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

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

3 **226.16 Unauthorized departure and retaking.** It shall be the
 4 duty of the superintendent and of all other officers and employees of
 5 any of said hospitals, in case of the unauthorized departure of any *in-*
 6 *voluntarily hospitalized* patient, to exercise all due diligence to take
 7 into protective custody and return said patient to the hospital. A noti-
 8 fication by the superintendent of such unauthorized departure to any
 9 peace officer of the state or to any private person shall be sufficient
 10 authority to such officer or person to take and return such patient to
 11 the hospital.

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

3 **226.18 Investigation as to mental health.** The state director
 4 may investigate the mental condition of any patient and shall dis-
 5 charge any person, if, in his opinion, such person is not mentally ill, or
 6 can be cared for after such discharge without danger to others, and

7 with benefit to the patient; but in determining whether such patient
 8 shall be discharged, the recommendation of the superintendent shall be
 9 secured. *If the state director orders the discharge of an involuntarily*
 10 *hospitalized patient, the discharge shall be by the procedure pre-*
 11 *scribed in section sixteen (16) of this Act.* The power to investigate
 12 the mental condition of a patient is merely permissive, and does not
 13 repeal or alter any statute respecting the discharge or commitment of
 14 patients of the state hospitals.

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

3 **226.19 Discharge—certificate.** All patients shall be discharged,
 4 *by the procedure prescribed in section three (3) or section sixteen*
 5 *(16) of this Act, whichever is applicable, immediately on regaining*
 6 *their good mental health and the superintendent shall issue duplicate*
 7 *certificates of full recovery, one of which he shall deliver to the re-*
 8 *covered patient, and the other of which he shall forward to the clerk of*
 9 *the district court of the county from which the patient was committed.*

1 SEC. 57. Section two hundred twenty-six point twenty-three
 2 (226.23), Code 1975, is amended to read as follows:

3 **226.23 Convalescent leave of patients.** Upon the recommenda-
 4 tion of the superintendent, and the written consent of the ~~commission-~~
 5 ~~ers of hospitalization of the county which is the legal settlement of a~~
 6 ~~district court which ordered hospitalization in the case of an invol-~~
 7 ~~untary patient, the state director may place on convalescent leave said~~
 8 ~~patient for a period not to exceed one year, under such conditions as~~
 9 ~~are prescribed by said state director.~~

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

3 **226.26 Dangerous incurables.** The state director, on the recom-
 4 mendation of the superintendent, and on the application of the rela-
 5 tives or friends of a patient who is not cured and who cannot be safely
 6 allowed to go at liberty, may release such patient when fully satisfied
 7 that such relatives or friends will provide and maintain all necessary
 8 supervision, care, and restraint over such patient. *If the patient being*
 9 *so released was involuntarily hospitalized, the consent of the dis-*
 10 *trict court which ordered the patient's hospitalization shall be ob-*
 11 *tained in advance in substantially the manner prescribed by section*
 12 *fourteen (14), subsection three (3) of this Act.*

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

3 **226.31 Examination by court—notice.** Before granting the order
 4 authorized in section 226.30 the court or judge shall investigate the al-
 5 legations of the petition and before proceeding to a hearing thereon
 6 shall require notice to be served on *the attorney who represented the*
 7 *patient in any prior proceedings under sections six (6) through fif-*
 8 *teen (15) of this Act or the advocate appointed under section nine-*
 9 *teen (19) of this Act, or in the case of a patient who entered the*
 10 *hospital voluntarily, on any relative, friend, or guardian of the per-*
 11 *son in question of the filing of said application. On such hearing the*
 12 *court or judge shall appoint a guardian ad litem for said person, if it*
 13 *deems such action necessary to protect the rights of such person.*

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

3 **226.32 Overcrowded conditions.** The state director shall order

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

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

3 **226.33 Notice to commissioners.** When a patient who *was hos-*
 4 *pitalized involuntarily and who has not fully recovered is discharged*
 5 *from the hospital without application therefor by the state director*
 6 *under section two hundred twenty-six point thirty-two (226.32) of*
 7 *the Code, notice of the order shall at once be sent to the commissioners*
 8 *of hospitalization of the county of which the patient is a resident, and*
 9 *the commissioners shall forthwith cause the patient to be removed, and*
 10 *shall at once provide for his care in the county as in other cases court*
 11 *which ordered the patient's hospitalization, in the manner pre-*
 12 *scribed by section fourteen (14), subsection four (4) of this Act.*

1 SEC. 62. Section two hundred twenty-seven point ten (227.10), Code
 2 1975, is amended to read as follows:

3 **227.10 Transfers from county or private institutions.** Patients
 4 who are suffering from acute mental illness, and who are violent, and
 5 confined at public expense in any such institution, may be removed by
 6 the state director to the proper state hospital for the mentally ill when,
 7 on competent medical testimony, the state director finds that said pa-
 8 tient can be better cared for and with better hope of recovery in the
 9 state hospital. *If the patient was hospitalized involuntarily, the state*
 10 *director shall report the transfer in the manner required of a chief*
 11 *medical officer under section fifteen (15), subsection four (4) of this*
 12 *Act. Such removal shall be at the expense of the proper county. Said*
 13 *expense shall be recovered as provided in section 227.7.*

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

3 **227.11 Transfers from state hospitals.** A county chargeable
 4 with the expense of a patient in a state hospital for the mentally ill
 5 shall remove such patient to a county or private institution for the
 6 mentally ill which has complied with the aforesaid rules when the state
 7 director so orders on a finding that said patient is suffering from
 8 chronic mental illness or from senility and will receive equal benefit by
 9 being so transferred. A county shall remove to its county home any pa-
 10 tient in a state hospital for the mentally ill upon a finding by a com-
 11 mission, consisting of the superintendent of the state hospital in which
 12 the patient is confined and a physician or physicians chosen by the
 13 board of supervisors of the county of the patient's residence, said phy-
 14 sician or physicians to be paid by the county of the patient's residence,
 15 that such patient can be properly cared for in the county home; and
 16 the finding of the commission, after its approval by the board of super-
 17 visors of the county of the patient's residence, shall be complete au-
 18 thority for such removal. In no case shall a patient be thus transferred
 19 except upon *compliance with section fourteen (14), subsection four*
 20 *(4) of this Act or without the written consent of a relative, friend, or*
 21 *guardian if such relative, friend, or guardian pays the expense of the*
 22 *care of such patient in a state hospital.*

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

3 **227.15 Authority to confine in hospital.** No person shall be *in-*
 4 *voluntarily* confined and restrained in any private institution or hos-
 5 pital or county hospital or other general hospital with psychiatric ward
 6 for the care or treatment of the mentally ill, except *by the procedure*
 7 *prescribed in sections six (6) through fifteen (15) of this Act upon*
 8 *the certificate of the commission of hospitalization of the county in*
 9 *which such person resides, or of two reputable physicians, at least one*
 10 *of whom shall be a bona fide resident of this state, who shall certify*
 11 *that such person is a fit subject for treatment and restraint in said in-*
 12 *stitution or hospital, which certificate shall be the authority of the*
 13 *owners and officers of said hospital or institution for receiving and con-*
 14 *fining said patient or person therein.*

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

3 **229.31 Commission of inquiry.** A sworn complaint, alleging that
 4 a named person is not *seriously* mentally ~~ill~~ *impaired* and is unjustly
 5 deprived of his liberty in any hospital in the state, may be filed by
 6 any person with the clerk of the district court of the county in which
 7 such named person is so confined, or of the county in which such
 8 named person has a legal settlement, and thereupon a judge of said
 9 court shall appoint a commission of not more than three persons to in-
 10 quire into the truth of said allegations. One of said commissioners shall
 11 be a physician and if additional commissioners are appointed, one of
 12 such commissioners shall be a lawyer.

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

3 **229.32 Duty of commission.** Said commission shall at once pro-
 4 ceed to the place where said person is confined and make a thorough
 5 and discreet examination for the purpose of determining the truth of
 6 said allegations and shall promptly report its findings to said judge in
 7 writing. Said report shall be accompanied by a written statement of the
 8 case signed by the ~~superintendent~~ *chief medical officer of the hospital*
 9 *in which the person is confined.*

1 SEC. 67. Section two hundred twenty-nine point thirty-three
 2 (229.33), Code 1975, is amended to read as follows:

3 **229.33 Hearing.** If, on such report and statement, and the hear-
 4 ing of testimony if any is offered, the judge shall find that such person
 5 is ~~in good mental health, he~~ *not seriously mentally impaired, the*
 6 *judge shall order his the person's discharge; if the contrary, he the*
 7 *judge shall so state, and authorize his the continued detention of the*
 8 *person, subject to all applicable requirements of this Act.*

1 SEC. 68. Section two hundred twenty-nine point thirty-four
 2 (229.34), Code 1975, is amended to read as follows:

3 **229.34 Finding and order filed.** The finding and order of the
 4 judge, with the report and other papers, shall be filed in the office of
 5 the clerk of the court where the complaint was filed. Said clerk shall
 6 enter a memorandum thereof on ~~his~~ *the appropriate* record, and forth-
 7 with notify the ~~superintendent~~ *chief medical officer* of the hospital of
 8 the finding and order of the judge, and the ~~superintendent~~ *chief medi-*
 9 *cal officer* shall carry out the order.

1 SEC. 69. Section two hundred twenty-nine point thirty-seven
 2 (229.37), Code 1975, is amended to read as follows:

3 **229.37 Habeas corpus.** All persons confined as *seriously* mental-
 4 ly ~~ill~~ *impaired* shall be entitled to the benefit of the writ of habeas

5 corpus, and the question of *serious mental illness impairment* shall be
 6 decided at the hearing. If the judge shall decide that the person is *seri-*
 7 *ously* mentally ~~is~~ *impaired*, such decision shall be no bar to the issu-

8 ing of the writ a second time, whenever it shall be alleged that such
 9 person ~~has been restored to reason~~ *is no longer seriously mentally im-*
 10 *paired.*

1 SEC. 70. Section two hundred twenty-nine point thirty-eight
 2 (229.38), Code 1975, is amended to read as follows:

3 **229.38 Cruelty or official misconduct.** If any person having the
 4 care of a mentally ill person *who has voluntarily entered a hospital*
 5 *or other facility for treatment or care, and restraining him or who is*
 6 *responsible for psychiatric examination care, treatment and main-*
 7 *tenance of any person involuntarily hospitalized under sections six*
 8 *(6) through fifteen (15) of this Act, whether in a hospital or else-*
 9 *where, with or without proper authority, shall treat him such patient*
 10 *with unnecessary severity, harshness, or cruelty, or in any way abuse*
 11 *him the patient, or if any person unlawfully detains or deprives of*
 12 *liberty any mentally ill or allegedly mentally ill person, or if any of-*
 13 *ficer required by the provisions of this chapter and chapters 226 to 228,*
 14 *inclusive and two hundred twenty-seven (227) of the Code, to per-*
 15 *form any act shall willfully refuse or neglect to perform the same, he*
 16 *the offending person shall, unless otherwise provided, be fined not to*
 17 *exceed five hundred dollars, or be imprisoned in the county jail not to*
 18 *exceed three months, and pay the costs of prosecution, or be both fined*
 19 *and imprisoned at the discretion of the court.*

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

1 SEC. 72. Section two hundred twenty-nine point forty-one (229.41),
 2 unnumbered paragraph two (2), Code 1975, is amended to read as fol-
 3 lows:

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

1 SEC. 73. Section two hundred twenty-nine point forty-two (229.42),
 2 unnumbered paragraph one (1), Code 1975, is amended to read as fol-
 3 lows:

4 If a person wishing to make application for voluntary admission to a
 5 mental hospital is unable to pay the costs of hospitalization or those
 6 responsible for such person are unable to pay such costs, application
 7 for *authorization of voluntary admission* must be made to any clerk of
 8 the district court *before application for admission is made to the hos-*
 9 *pital.* After determining the county of legal settlement the said clerk
 10 shall, on forms provided by the state director, authorize such person's
 11 admission to a mental health hospital as a voluntary case. The clerk
 12 shall at once provide a duplicate copy of the form to the county board
 13 of supervisors. The costs of the hospitalization shall be paid by the
 14 county of legal settlement to the state comptroller and credited to the
 15 general fund of the state, providing the mental health hospital render-
 16 ing the services has certified to the county auditor of the responsible

17 county the amount chargeable thereto and has sent a duplicate state-
18 ment of such charges to the state comptroller.

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

3 **229.43 Nonresidents or no-settlement patients.** The state direc-
4 tor shall have the power to place patients of mental health institutes
5 who have no county of legal settlement; who are nonresidents; or
6 whose legal settlement is unknown, on convalescent leave to a private
7 sponsor or in any health care facility licensed under chapter 135C,
8 when in the opinion of the state director said placement is in the best
9 interests of the patient and the state of Iowa. *If the patient was in-*
10 *voluntarily hospitalized the district court which hospitalized the pa-*
11 *tient must be informed when the patient is placed on convalescent*
12 *leave, as required by section fifteen (15), subsection four (4) of this*
13 *Act.*

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

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

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

3 **230.3 Certification of settlement.** If such legal settlement is
4 found to be in another county of this state, the ~~commission~~ *court* shall,
5 as soon as said determination is made, certify such finding to the su-
6 perintendent of the hospital to which said patient is admitted or com-
7 mitted, and thereupon said superintendent shall charge the expenses
8 already incurred and unadjusted, and all future expenses of such pa-
9 tient, to the county so certified until said settlement shall be otherwise
10 determined as hereinafter provided.

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

3 **230.4 Certification to debtor county.** Said finding of legal set-
4 tlement shall also be certified by the ~~commission~~ *court* to the county
5 auditor of the county of such legal settlement. Such auditor shall lay
6 such notification before the board of supervisors of his county, and it
7 shall be conclusively presumed that such person has a legal settlement
8 in said notified county unless said county shall, within ~~six months~~ *six-*
9 *ty days give notice*, in writing ~~filed with the commission of hospitali-~~
10 ~~zation giving said notice, dispute such to the court that the county~~
11 *disputes the finding of legal settlement.*

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

3 **230.5 Nonresidents.** If such legal settlement is found by the
4 ~~commission~~ *court* to be in some foreign state or country, or unknown,
5 it shall, ~~without entering an order of admission or commitment to the~~
6 ~~state hospital,~~ immediately notify the state director of such finding
7 and furnish the state director with a copy of the evidence taken on the
8 question of legal settlement, and ~~hold said patient for investigation by~~
9 ~~said state director shall in its order issued pursuant to section thir-~~
10 ~~teen (13) of this Act direct that the patient be hospitalized at the~~
11 *appropriate state hospital for the mentally ill.*

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

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

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

1 SEC. 80. Section two hundred thirty point seven (230.7), Code 1975,
2 is amended by striking the section and inserting in lieu thereof the fol-
3 lowing:

4 **230.7 Transfer of nonresidents.** Upon determining that a pa-
5 tient in a state hospital who has been involuntarily hospitalized under
6 this Act or admitted voluntarily at public expense was not a resident of
7 this state at the time of the involuntary hospitalization or admission,
8 the state director may cause that patient to be conveyed to his or her
9 place of residence. However, a transfer under this section may be made
10 only if the patient's condition so permits and other reasons do not ren-
11 der the transfer inadvisable. If the patient was involuntarily hospital-
12 ized, prior approval of the transfer must be obtained from the court
13 which ordered the patient hospitalized.

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

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

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

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

Approved June 16, 1975