

No. 112

1st Session, 15th Legislature, Alberta
12 Elizabeth II

BILL 112

A Bill respecting Mentally Disordered Persons

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Explanatory Note

General. This Bill results from the work done by a committee appointed by the Government two years ago to study the mental health legislation of the Province. The Bill will replace The Mental Defectives Act and The Mental Diseases Act (chapters 199 and 200 of the Revised Statutes). Several alternative methods of admitting a person to a hospital are provided and review panels are established to ensure that no person is improperly kept in a hospital.

2. Definitions.

BILL

No. 112 of 1964

An Act respecting Mentally Disordered Persons

(Assented to _____, 1964)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Mental Health Act*".
2. In this Act,
 - (a) "Director" means the Director of Mental Health appointed pursuant to this Act;
 - (b) "hospital" means a hospital, institution or other facility, or any part thereof, designated by the Lieutenant Governor in Council as a hospital for the purpose of this Act;
 - (c) "mentally disordered person" means a person who is suffering from mental illness, mental retardation or any other disorder or disability of mind;
 - (d) "Minister" means the Minister of Health;
 - (e) "nearest relative" means the person first listed in the following subclauses who is residing in the Province, relatives of the whole blood being preferred to relatives of the same description of the half-blood and the elder or eldest of two or more relatives described in any subclause being preferred to the other of those relatives regardless of sex:
 - (i) husband or wife;
 - (ii) son or daughter;
 - (iii) father;
 - (iv) mother;
 - (v) brother or sister;
 - (vi) grandparents;
 - (vii) grandchild;
 - (viii) uncle or aunt;
 - (ix) nephew or niece;except that where the mentally disordered person is a ward of the Government under *The Child Welfare Act*, it means the Minister of Public Welfare;
 - (f) "patient" means a person admitted to a hospital;

3. Appointment of a Director and Assistant Director of Mental Health and other employees.

4. The Minister of Health has authority to establish facilities for mentally disordered persons.

5. A patient may be admitted to a hospital on a voluntary basis. He may leave at any time upon notice unless a certificate is issued stating it is unsafe for him to be at large. This detention can only be for a maximum of 30 days unless a renewal certificate is issued under clause 12.

- (g) "physician" means a member of the College of Physicians and Surgeons of the Province of Alberta;
- (h) "renewal certificate" means a medical certificate recommending detention of a patient in a hospital for a further period;
- (i) "responsible physician" means the physician who has undertaken the responsibility for the care and treatment of a patient;
- (j) "superintendent" means the physician responsible for the medical administration of a hospital, or in his absence the assistant superintendent or next in authority.

3. (1) There may be appointed a Director of Mental Health, an Assistant Director and such other employees as may be required for the purposes of this Act.

(2) The powers and duties conferred or imposed upon the Director by this Act or the regulations may be exercised or performed by the Assistant Director, the Deputy Minister or a person designated by the Minister.

4. The Minister may establish and operate facilities for the observation, care, treatment or training of mentally disordered persons.

Admission to Hospital

5. (1) Subject to this Act and the regulations, any person who is or is believed to be a mentally disordered person in need of the care and treatment or observation provided in a hospital and who is not unwilling to be admitted may be admitted to a hospital and detained therein without any certificates, warrant or order.

(2) An infant who has attained the age of sixteen years and is capable of expressing his own wishes may, on his own request only, be admitted and detained as a voluntary patient pursuant to subsection (1), notwithstanding any right of custody or control vested by law in his parent or guardian.

(3) Subject to subsection (4), a person in a hospital as a voluntary patient pursuant to this section shall not be detained therein for more than seventy-two hours after he or his nearest relative has given notice in writing to the superintendent that he desires to be discharged therefrom.

(4) Where a person in a hospital as a voluntary patient pursuant to this section, or his nearest relative, gives notice to the superintendent that he desires to be discharged from the hospital he may, notwithstanding subsection (3),

(a) upon his having been personally examined by the responsible physician or a physician designated by the superintendent, and

6. A patient may be admitted to and detained in a hospital on the certificates of two physicians stating the person is mentally disordered and in need of care and control for his own protection or welfare or the protection of others. The detention can only be for a maximum of 30 days unless a renewal certificate is issued under clause 12.

7. In urgent cases where two physicians' certificates can't be obtained a patient may be admitted and detained on one certificate. The detention can only be for a maximum of 30 days unless a renewal certificate is issued under clause 12.

- (b) upon the issue by that physician of a certificate, and
 - (c) with the approval of the superintendent,
- be detained in hospital for a period of thirty days from the date of receipt of the notice by the superintendent.
- (5) The examining physician shall conduct the examination separately from any other physician.

6. (1) Subject to the regulations, a person who in the opinion of two examining physicians is a mentally disordered person in need of care, supervision and control

- (a) for his own protection or welfare, or
 - (b) for the protection of others,
- may be admitted to a hospital and detained therein on the certificates of the two physicians.

(2) The certificates of two physicians upon the prescribed forms, accompanied by the prescribed history record, are sufficient authority to any person to take the person named in the certificate into custody and convey him to a hospital.

(3) Upon the request of the Director, the superintendent shall forthwith transmit to the Director copies of the documents mentioned in subsection (2).

(4) Every certificate shall state that the physician has personally examined the person named therein separately from any other physician and, after due inquiry into all the necessary facts relating to the case of the person, found him to be a mentally disordered person in need of care, supervision and control

- (a) for his own protection or welfare, or
- (b) for the protection of others.

(5) Every certificate shall state, also, the facts upon which the physician has formed his opinion of the mental disorder and shall show the date upon which the examination was made and shall be signed in the presence of one subscribing witness.

(6) A physician who issues a certificate shall not be the witness to the signature of the other physician who is issuing the certificate.

(7) No person shall be admitted to a hospital pursuant to this section after the expiry of fourteen days from the date on which the examinations are made or, if the examinations are not made on the same date, after the expiry of twenty-one days from the date of the first examination.

(8) A patient admitted to a hospital pursuant to this section may be detained therein for thirty days from the date of admission on the authority of the certificates on which he was admitted.

- 7.** (1) Where, in the opinion of one examining physician,
- (a) it is essential that a mentally disordered person,

8. A justice of the peace, on information sworn before him, may issue a warrant to have a person taken for medical examination. In addition a peace officer who finds an apparently mentally disordered person in a public place may take him for medical examination. The period for which the person may be detained is set out in subclauses (4) and (5).

- (i) for his own protection or welfare, or
 - (ii) for the protection of others,
- should be placed forthwith under care, supervision and control, and

(b) it appears to be impossible to obtain the certificates of two physicians within a reasonable time, that physician may issue a certificate, in the prescribed form, stating the urgent nature of the case and the mentally disordered person may be admitted to a hospital and detained therein on that one certificate.

(2) The certificate of one physician issued under subsection (1) is sufficient authority to any person to take the person named in the certificate into custody and convey him to a hospital.

(3) A patient admitted to a hospital pursuant to this section shall not be detained therein for more than seventy-two hours unless within that time

(a) the patient gives notice in writing to the superintendent that he desires to remain in the hospital as a patient, or

(b) a renewal certificate is issued by the responsible physician or a physician designated by the superintendent, after a personal examination of the patient by him,

and where a certificate is issued, the patient may, with the approval of the superintendent, be detained for a period of thirty days from the date of issue of the certificate.

8. (1) A person who believes that another person who refuses to submit to a medical examination is a mentally disordered person and in need of care, supervision and control,

(a) for his own protection or welfare, or

(b) for the protection of others,

may lay an information before a justice of the peace and, if he is satisfied as to the responsibility and integrity of the informant, the justice of the peace may issue his warrant to take the person named therein into custody and cause him to be taken to a hospital or other place of safety for medical examination.

(2) If any relative or friend of the alleged mentally disordered person so requests, the warrant may be directed to and executed by the relative or friend, otherwise it may be directed to and executed by any officers of the municipality or peace officers.

(3) Where a peace officer finds in a place to which the public has access someone who appears to be a mentally disordered person in immediate need of care, supervision and control, the peace officer may if he thinks it necessary in the interests of that person or for the protection of others

9. The Criminal Code also provides authority for admitting and detaining persons in hospitals.

10. Conveyance of female patients.

11. Restriction on the physicians who may sign certificates.

take him into custody without a warrant and take him to a hospital or other place of safety for medical examination.

(4) A person taken into custody pursuant to this section shall be examined by a physician forthwith upon being taken to the hospital or place of safety and if on the examination it is found that he is a mentally disordered person in need of care, supervision and control

(a) for his own protection or welfare, or

(b) for the protection of others,

he may, upon the authority of the certificate of the examining physician, be taken and admitted to a hospital, otherwise he shall be released.

(5) A patient admitted to a hospital under subsection (4) shall not be detained therein for more than seventy-two hours unless within that time

(a) the patient gives notice in writing to the superintendent that he desires to remain in the hospital as a patient, or

(b) a renewal certificate is issued by the responsible physician or a physician designated by the superintendent, after a personal examination of the patient by him,

and where a certificate is issued the patient may, with the approval of the superintendent, be detained for a period of thirty days from the date of issue of the certificate.

9. Subject to the regulations, a mentally disordered person may be admitted to a hospital and detained therein on the authority of

(a) an order of the Lieutenant Governor under the *Criminal Code*, or

(b) on an order under the *Criminal Code* remanding the mentally disordered person in custody for observation.

10. When a female is being conveyed to a hospital she shall, unless accompanied by her husband, father, adult son or adult brother, be placed in charge of or accompanied by a female.

11. (1) Except as permitted by the regulations or by the Minister, no certificate or form required by this Act or the regulations with respect to any person shall be made, issued, given, completed or signed by any physician who, directly or indirectly, has any proprietary interest in the hospital in which that person has been or is to be admitted as a patient.

(2) Except as permitted by the regulations or by the Minister, no certificate or form required by this Act or the regulations to be made, issued, given, completed or

12. Patients detained in hospitals under the preceding clauses may be detained for further successive periods of 6 months each if a renewal certificate is issued and the superintendent of the hospital approves.

13. Authority to give treatment to patients in hospitals.

14. Report of patient's former residence, means of support, etc., may be required.

15. Establishment, constitution and duties of review panel for each hospital.

signed by a physician respecting any person shall be made, issued, given, completed or signed by a physician who is by blood or marriage closely related to or connected with that person.

- 12.** (1) A patient detained in a hospital pursuant to
- (a) subsection (4) of section 5, or
 - (b) subsection (8) of section 6, or
 - (c) subsection (3) of section 7, or
 - (d) subsection (5) of section 8,

may be detained after the expiry of the thirty day detention period mentioned therein for successive periods of six months each, if the responsible physician, or a physician designated by the superintendent, upon personally examining the patient in advance of each period, issues a renewal certificate and the superintendent approves of the detention.

(2) A physician shall not issue a certificate under section 5 or a renewal certificate under section 7 or 8 or subsection (1) of this section unless he is of the opinion that the patient is so mentally disordered that he requires care, supervision and control

- (a) for his own protection or welfare, or
- (b) for the protection of others.

13. (1) Except in case of emergency, where a patient is detained in a hospital under the authority of subsection (1), (2) or (3) of section 5, no diagnostic or treatment services or procedures shall be carried out upon the patient except with his consent or that of his nearest relative.

(2) Where a patient is detained in a hospital under the authority of subsection (4) of section 5 or section 6, 7, 8, 9 or 12 the superintendent has full authority to determine the care and treatment to be provided to the patient and to direct the giving of that care and treatment.

14. Upon the request of the Director, the superintendent of a hospital shall submit a report to the Director giving such information as the superintendent can ascertain respecting a patient's residence previous to admission, his marital status, his occupation, means of support, property and possessions and such other facts as may be required by the regulations.

Investigation of Complaints

15. (1) The Minister shall appoint a review panel for each hospital.

(2) Each review panel shall consist of three persons, one of whom shall be a physician and another shall be a solicitor.

16. Right of persons in hospitals to submit a complaint against their further detention.

(3) The Minister shall designate one of the members of each review panel to be chairman of the review panel and another to be vice-chairman.

(4) The Minister may appoint three alternate members for each review panel in accordance with subsection (2) and where for any reason a member of a review panel cannot act as a member he shall be replaced by the appropriate alternate member who shall act as a member until the investigation being conducted is completed, and where so acting an alternate member has all the powers of a member.

(5) The Minister may annually review the appointment of members and alternate members and make such changes as he considers advisable.

(6) No employee of the Government or of any agency of the Government or of a hospital, no person actively serving as a member of the medical staff of a hospital and no person who by blood or marriage is closely related to or connected with a member of the medical staff of a hospital shall be a member or alternate member of a review panel for that hospital.

(7) The Minister shall provide such secretarial and other assistance to each review panel as may be required.

(8) The function of a review panel is the investigation of complaints submitted under section 17, and for the purpose of any such investigation the members of the review panel have all the powers of commissioners appointed under *The Public Inquiries Act*.

(9) A decision of a majority of the members is the decision of the review panel.

(10) The members of each review panel and the alternate members shall receive such remuneration as may be determined by the Lieutenant Governor in Council.

16. (1) Forthwith upon

- (a) a person being admitted to a hospital under section 6, 7 or 8,
 - (b) the authority under which a person is detained in a hospital being replaced by another authority for his detention, or
 - (c) a renewal certificate being issued in respect of a person who is a patient in a hospital,
- the superintendent of the hospital shall notify such person and his nearest relative
- (d) of the existence and function of the review panel appointed for the hospital,
 - (e) of the name and address of the chairman of the review panel, and
 - (f) of the right of appeal to the review panel as provided in section 17.

17. Procedure of applicant making a complaint.

18. Conduct of investigation by a review panel.

(2) In addition to the giving of notice pursuant to subsection (1), the superintendent shall, having regard to the circumstances in each case in which the person desires to exercise his right of appeal, do such other things as the superintendent considers expedient to facilitate the submission of a complaint under section 17.

17. (1) A person in respect of whom

(a) a certificate has been issued under section 5, 6 or 8, or

(b) a renewal certificate has been issued under section 7, 8, 12 or 24,

may submit a complaint in writing to the chairman of the review panel alleging that the certificate ought not to have been issued or that it should be revoked.

(2) The nearest relative of a person who is a patient or the Minister may submit a complaint under subsection (1) on behalf of the patient but where a complaint is so made the word "complainant" wherever it occurs in this section and sections 18 and 19 means the patient and not his nearest relative or the Minister.

(3) Only one complaint may be made to a review panel with respect to a certificate or a renewal certificate.

(4) Upon receipt by the chairman of a review panel of a complaint in writing, the review panel shall forthwith carry out whatever investigation it considers necessary to speedily determine the validity of the complaint and may invite the complainant and other persons considered by the review panel to be affected by the complaint to testify or produce evidence relating thereto.

18. (1) All proceedings of a review panel shall be conducted in private and no member of the public is entitled to be present during any investigation, hearing or deliberations of a review panel, except with the permission of the Minister, on the recommendation of the chairman of the review panel.

(2) The complainant has the right to be personally present when any oral evidence is presented to the review panel, unless the review panel is of the opinion that this would be detrimental to his health, in which case he has the right to be represented.

(3) The complainant or his representative has the right of cross-examination.

(4) Except as permitted by this Act or the regulations, no person shall publish any report of an investigation by a review panel or the names of any persons concerned in such an investigation.

19. Review panel to give written report.

20. Regulations respecting review panels.

19. (1) The chairman of the review panel shall make a written report of the decision of the review panel and shall, within fourteen days after the receipt by him of the complaint or within such further period as may be fixed by the Minister, transmit the report to the complainant, or to the nearest relative or the Minister where the nearest relative or the Minister submitted the complaint, and a copy thereof to the superintendent of the hospital in which the complainant is a patient.

(2) The superintendent shall take whatever action may be required to give effect to the decision of the review panel.

20. The Lieutenant Governor in Council may make regulations with respect to the submission of complaints to review panels, and with respect to the investigations made by review panels and matters incidental thereto and consequential thereon, and, without limiting the generality of the foregoing, may make regulations

- (a) for regulating the methods by which information relevant to a complaint may be obtained by or furnished to a review panel and for authorizing the members of a review panel or any one or more of them to visit and interview in private any patient by or in respect of whom a complaint has been submitted,
- (b) for regulating the circumstances in which, and the persons by whom, complainants may, if not desiring to conduct their own case, be represented,
- (c) for making available to any complainant copies of any documents obtained by or furnished to the review panel in connection with the complaint, and a statement of the substance of any oral information so obtained or furnished except where the review panel considers it undesirable in the interests of the complainant or for other special reasons that this be done,
- (d) for requiring a review panel, upon request, to furnish to the complainant and any other person considered by the review panel to be affected by the complaint a statement of the reasons for any decision given by it, subject to the right of the review panel to withhold such information from the complainant or any other person where it considers that the furnishing of such information would be detrimental to the health of the complainant or that it should be withheld for any other special reason, and
- (e) conferring on review panels such other ancillary powers as are considered advisable in carrying out their functions under this Act.

21. Appeal to the Supreme Court of Alberta from decisions of review panels.

22. When patients to be discharged by superintendent.

23. A patient may be discharged at the request of and into the care of the nearest relative if the superintendent considers it suitable under the circumstances.

21. (1) The complainant or his nearest relative on his behalf or the Minister, as the case may be, if dissatisfied with the decision of the review panel under section 19, may apply to the Supreme Court for an order revoking a certificate or renewal certificate and that the complainant be discharged from the hospital.

(2) The application may be made by notice of motion.

(3) The notice of motion shall be served upon

(a) the Minister, if he is not the applicant,

(b) the superintendent of the hospital in which the complainant is a patient, and

(c) such other persons as the court may direct, not less than fifteen days before the motion is returnable and the practice and procedure of the court upon an application in chambers applies, so far as it is applicable, to an application under this section, except as otherwise provided by this section.

(4) The application shall be supported by an affidavit of the applicant setting forth fully all the facts in support of the application.

(5) In addition to the evidence adduced by the applicant, the court may direct such further evidence to be given as it considers necessary.

(6) An order of the court under this section is not subject to appeal.

(7) The court may make whatever order as to the costs of the application as it considers fit.

(8) Where the court orders that the complainant be discharged from the hospital, the superintendent of the hospital shall comply with the order upon being served with a true copy thereof.

Discharge of Patients

22. (1) A patient detained in a hospital pursuant to this Act shall be discharged from the hospital when, in the opinion of the superintendent, he is sufficiently recovered or it is in the interest of the patient that he be discharged.

(2) Where the patient is liable to imprisonment or charged with an offence the superintendent shall discharge him to the custody of the proper authority.

23. (1) Except where subsection (3) applies, no person shall be detained as a patient under section 12 against his wishes and those of his nearest relative if the nearest relative undertakes to keep him under supervision in accordance with section 24 and the superintendent is of the opinion that the patient no longer requires care, supervision or control in a hospital

(a) for his own protection or welfare, or

24. A patient may be released on trial in certain circumstances.

25. Authority of Director to move patient from one hospital to another.

(b) for the protection of others.

(2) The request for discharge shall be made in writing to the superintendent who shall reach a decision with respect thereto within two days after he receives the request.

(3) Subject to any decision of a review panel under section 19 or an order of the Supreme Court under section 21, the superintendent may refuse to discharge the patient from the hospital if upon investigation the superintendent is satisfied that the conditions in, or the environment of, the proposed residence of the patient are unsuitable for his return thereto.

24. (1) If the superintendent of a hospital considers it conducive to the recovery of, or otherwise in the interest of, a patient detained therein that he should be allowed to return for a time to his family or friends, the superintendent may allow him to do so upon receiving a written undertaking by any one or more of his family or friends that he or they will keep the patient under supervision.

(2) If the patient was detained under the authority of section 12, then

(a) at any time before the expiry of the period of detention so authorized the superintendent of the hospital in which the patient was detained may appoint a physician to examine the patient, and

(b) that physician may, if upon examining the patient he is of the opinion that the patient is so mentally disordered that he requires care, supervision and control

(i) for his own protection or welfare, or

(ii) for the protection of others,

issue a renewal certificate in respect of that person, and thereupon section 12 applies as if the renewal certificate had been issued under that section.

(3) If before the expiry of a period of detention authorized under section 12 the patient again becomes in need of care in a hospital, the superintendent of the hospital in which he was detained or the Director may by warrant in the prescribed form, directed to any peace officer or other person, direct that the patient be taken into custody and brought back to the hospital, and the warrant is authority to any one acting under it to take the person named therein into custody and return him to the hospital named therein.

(4) This section does not apply to a patient who is liable to imprisonment or charged with an offence.

Removal to Another Place

25. (1) Subject to regulations, the Director may by warrant transfer a patient, other than a patient detained under subsection (1), (2) or (3) of section 5, from any hospital to any other hospital.

26. Authority for transfer of patient to another form of institution.

27. Removal of patient to an ordinary hospital for medical treatment.

28. Non-residents of the Province may be returned to their place of origin.

29. If a patient leaves a hospital without authority he may be retaken into custody.

(2) Where a patient is transferred under subsection (1), the warrant shall be accompanied by the certificates authorizing his detention in the hospital from which he is transferred, and the warrant and certificates continue to be sufficient authority for detention.

26. (1) A patient in a hospital

(a) who requires care and supervision, but

(b) who will, because of the nature of his mental disorder, be more suitably cared for in another institution,

shall, on the direction of the Director, be discharged from the hospital for admission to that institution.

(2) A patient shall only be discharged under subsection (1) when accommodation is available for him in the other institution.

27. (1) The superintendent of a hospital may, having ascertained that any patient therein requires medical, surgical or other treatment that cannot be given in the hospital, authorize the removal of the patient to an appropriate place for treatment.

(2) From the time of removal until his return to the hospital within the period of detention authorized under this Act, the patient continues to be a patient of the hospital in the same manner and to the same extent and is subject to the same control as if he were in the hospital.

28. If it appears to the Minister that any patient in a hospital has come or been brought into the Province from elsewhere within twelve months prior to his admission to the hospital, the Minister may authorize the removal of the patient to the province or country from which he came or was brought.

Unauthorized Departure from Hospital

29. (1) If a patient leaves a hospital without having been discharged, the superintendent may within sixty days thereafter, if he considers it desirable to do so, order that the patient be returned to the hospital, and where he does so the patient may be taken into custody and returned to the hospital, without a warrant, by any peace officer, whether designated by the superintendent or not, or by any other person designated by the superintendent.

(2) Except as provided in subsection (3), after sixty days' absence the patient shall be deemed to be discharged from the hospital.

30. Persons liable for the maintenance of a patient in a hospital.

31. The Province may pay the costs in the first instance and recover from the person liable.

(3) If a patient to whom subsection (1) applies is charged with an offence or liable to imprisonment or considered by the superintendent to be dangerous to himself or others he may be taken into custody without a warrant and returned to the hospital notwithstanding that the period of sixty days mentioned in subsection (1) has expired and he shall not be deemed to be discharged after sixty days' absence.

Expenses

30. (1) Section 37 of *The Alberta Hospitals Act* applies with respect to hospitals under this Act and the person liable for the payment of charges under that section is liable for the payment of the expenses incurred in connection with the taking into custody, medical examination, committal, keeping in custody, transportation, care and maintenance of a patient admitted to a hospital pursuant to this Act.

(2) Where a patient is admitted to and detained in a hospital on the authority of an order of the Lieutenant Governor under the *Criminal Code*, the expenses incurred after the making of the order shall be paid by the person who would be liable under subsection (1) if the patient had been admitted under the authority of this Act, except that when the patient is under a sentence of imprisonment the expenses incurred during the term of the imprisonment shall be paid by the Province.

(3) Where the person liable for the payment of the expenses under subsection (1) or (2) is not possessed of sufficient means to pay the expenses, the expenses shall be paid by the Province.

(4) Where a person is examined for the purposes of section 6 or 7, the fees of the examining physicians shall be paid in the first instance by the person procuring the examination, but are recoverable by him from the person liable under subsection (1).

31. (1) All expenses incurred in connection with the taking into custody, medical examination, committal, keeping in custody, transportation, care and maintenance of any person under this Act may be paid in the first instance by the Province.

(2) The Province may recover the expenses paid by it from the person liable for payment under section 30.

(3) The expenses are recoverable by the Province at the suit of the Attorney General as a debt due to the Crown.

(4) The Attorney General is not bound to demand or sue for the expenses if for any reason he considers it inadvisable to do so, but he may make whatever other arrangement he thinks proper for payment of the whole or a portion thereof by the person liable under section 30, or he may abandon all claim against the person liable.

32. Approved homes may be authorized.

33. Regulations to carry out the Act.

General

32. (1) The Minister may issue certificates approving any place as an approved home for the reception of mentally disordered persons and entitling any person to receive into that place mentally disordered persons as if the place had been designated as a hospital.

(2) The Lieutenant Governor in Council may make regulations

- (a) covering the granting or withdrawal of certificates of approval,
- (b) prescribing the standards of construction necessary and equipment required in approved homes,
- (c) declaring a section or sections of this Act to be not applicable to approved homes,
- (d) covering inspection of approved homes,
- (e) prescribing the fees payable in respect of certificates of approval and for inspection,
- (f) prescribing the amounts to be paid for the care and maintenance of mentally disordered persons while in an approved home, and
- (g) covering such other matters relating to the management and conduct of approved homes that he considers proper.

33. The Lieutenant Governor in Council may make regulations for the purpose of carrying out this Act according to its intent and of supplying any deficiency in this Act, and without limiting the generality of the foregoing may make regulations

- (a) designating the hospitals to which this Act applies,
- (b) classifying hospitals, defining the district to be served by, and the classes of patients to be treated in, any hospital, and specifying with respect to each class of hospital the forms of authority, as provided in sections 5, 6, 7, 8, 9 and 12, that may be accepted by a hospital in that class as authority for admission of a person to the hospital, or for his detention therein,
- (c) governing the inspection, superintendence, government, management, conduct, operation, maintenance, care and use of hospitals and equipment,
- (d) governing the taking into custody and admission of patients to hospitals,
- (e) governing the care, treatment, maintenance, conduct, discipline, custody, transfer, probation, release, taking into custody and discharge of patients,
- (f) prescribing the forms required for the carrying out of this Act and the regulations,

34. Documents not invalidated by want of form.

35. Protection against civil proceedings for persons acting under the Act in good faith and with reasonable care.

36. A hospital is not liable for the wrongful acts of its patients.

37. Offences and penalty.

- (g) prescribing the charges to be made for care, maintenance and other services provided to patients who are not entitled to those services at the expense of the Province, and
- (h) prescribing the fees payable by the Province to physicians or other persons acting pursuant to this Act.

34. A warrant, order or form issued under this Act or the regulations shall not be held to be insufficient or invalid by reason only of any irregularity, informality or insufficiency therein or in any proceedings in connection therewith.

35. No action lies against any person

- (a) who lays an information under this Act, or
- (b) who signs a certificate or does any act to cause a certificate to be signed under section 5, 6, 7, 8, 12 or 24 or who otherwise acts under the authority of any of those sections, or
- (c) who takes or commits any person into a hospital or other place of safety upon the ground that he is a mentally disordered person, or
- (d) who signs or carries out or does any act with a view to signing or carrying out an order purporting to be an order for the removal of any person to a hospital,

if he acted in good faith and with reasonable care, and where such an action is brought, the action may upon application to a judge be stayed, upon such terms as to costs and otherwise as the judge thinks fit, if he is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care.

36. No action lies against any hospital or any officer, employee or servant thereof for the tort of any patient.

37. (1) No person shall

- (a) assist a patient in making or attempting to make an unauthorized departure from a hospital, or
- (b) do or omit an act for the purpose of aiding a patient in making or attempting to make an unauthorized departure from a hospital, or
- (c) abet or counsel a patient to make an unauthorized departure from a hospital, or
- (d) visit, assist, counsel or communicate with a patient after having been prohibited in writing from doing so by the Director or the superintendent.

38. General offence and penalty.

39. Repeal of The Mental Diseases Act and The Mental Defectives Act and effect on existing hospitals and the patients therein.

40. Commencement of Act.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for not more than thirty days.

38. A person who contravenes any provision of this Act or the regulations, for which contravention no other penalty is imposed, is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for not more than thirty days.

39. (1) *The Mental Diseases Act* and *The Mental Defectives Act* are hereby repealed.

(2) Every mental hospital, training school, institution or other facility in operation under the authority of *The Mental Diseases Act* or *The Mental Defectives Act* is a hospital to which this Act applies and shall be deemed to have been so designated by the Lieutenant Governor in Council.

(3) Every person who, on the day this Act comes into force, is being detained in a mental hospital, training school, institution or other facility under the authority of *The Mental Diseases Act* or *The Mental Defectives Act* shall be deemed to have been admitted to and to be detained in a hospital under the authority of this Act and section 12 applies *mutatis mutandis*, to him as if his entire period of detention had been under the authority of this Act.

40. This Act comes into force on a date to be fixed by Proclamation.

No. 112

FIRST SESSION
FIFTEENTH LEGISLATURE
12 ELIZABETH II
1964

BILL

An Act respecting Mentally
Disordered Persons

Received and read the

First time

Second time

Third time

HON. DR. ROSS
