

No. 40

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3rd Session, 15th Legislature, Alberta  
14 Elizabeth II

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## **BILL 40**

A Bill to amend The Mental Health Act

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HON. DR. ROSS

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## Explanatory Note

**1.** This Bill will amend chapter 54 of the Statutes of Alberta, 1964.

**2.** A new provision is added authorizing agreements with respect to mentally disordered persons from other jurisdictions.

**3.** Section 5, subsection (4) presently reads:

(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
  - (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.

**4.** Section 6, subsection (8) presently reads:

(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.

**5.** Section 7, subsection (3) presently reads:

(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.

# BILL

No. 40 of 1966

An Act to amend The Mental Health Act

(Assented to \_\_\_\_\_, 1966)

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

1. *The Mental Health Act* is hereby amended.
2. Section 4 is amended by renumbering the section as subsection (1) and by adding the following subsection:  
(2) The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with appropriate authorities of any province or territory in Canada for the reception, observation, care, treatment and detention in a hospital in Alberta of mentally disordered persons from that province or territory in accordance with the laws thereof.
3. Section 5, subsection (4) is amended by striking out the words "thirty days" and by substituting the words "sixty days".
4. Section 6, subsection (8) is amended by striking out the words "thirty days" and by substituting the words "sixty days".
5. Section 7, subsection (3) is amended by striking out the words "thirty days" and by substituting the words "sixty days".

**6.** Section 8, subsections (4) and (5) presently read:

(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.

**7.** New. Added to allow a mentally disordered person sentenced or committed to penitentiary to be admitted and detained in a hospital.

**8.** New. Added to allow a person in custody in a provincial gaol to be transferred to and detained in a hospital.

**6.** Section 8 is amended by striking out subsections (4) and (5) and by substituting the following:

(4) A person taken into custody pursuant to this section and taken to a hospital may be detained therein for medical examination for not 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) certificates are issued by two physicians designated by the superintendent, after a personal examination of the patient by them,

and where certificates are issued the patient may, with the approval of the superintendent, be detained for a period of sixty days from the date of issue of the certificates.

(5) A person taken into custody pursuant to this section and taken to a place of safety, other than a hospital, shall be examined by a physician forthwith 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.

(6) A patient admitted to a hospital under subsection (5) 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 sixty days from the date of issue of the certificate.

**7.** Section 9 is amended by renumbering the section as subsection (1) and by adding the following subsection:

(2) Subject to the regulations, a mentally disordered person sentenced to or committed to penitentiary may be admitted and detained in a provincially operated hospital in accordance with an agreement entered into under the *Penitentiary Act (Canada)*.

**8.** The following section is added after section 9:

**9a.** (1) Subject to the regulations, a person in custody in a provincial gaol may be transferred to a provincially operated hospital for medical examination.

**9. Section 12 presently reads:**

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.

**10. Section 13 presently reads:**

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.

(2) A patient admitted to a hospital pursuant to this section shall not be detained therein for more than thirty days unless within that time certificates are issued by two physicians designated by the superintendent, after a personal examination of the patient by them, and where certificates are issued, the patient may, with the approval of the superintendent, be detained for a period of sixty days from the date of issue of the certificate.

(3) A person who is confined in a hospital pursuant to this section shall, for the period that he is still under sentence, be deemed to be confined in lawful custody in accordance with the terms of his sentence.

**9. Section 12 is amended**

(a) as to subsection (1)

(i) by striking out clause (d) and by substituting the following:

(d) subsection (4) or subsection (6) of section 8, or

(e) subsection (2) of section 9a,

(ii) by striking out the words "thirty day" and by substituting the words "sixty day",

(b) by striking out subsection (2) and by substituting the following:

(2) A physician shall not issue

(a) a certificate under section 5 or subsection (4) of section 8 or section 9a, or

(b) a renewal certificate under section 7 or subsection (6) of section 8 or subsection (1) of this section,

unless the physician is of the opinion that the patient is so mentally disordered that he requires care, supervision and control for his own protection or welfare, or for the protection of others.

**10. Section 13 is amended**

(a) by adding the following subsection after subsection (1):

(1a) Where the patient is unable to give his consent as required by subsection (1), and where after reasonable inquiry no nearest relative can be found in Canada or the nearest relative refuses to accept responsibility for the patient, the Minister may authorize the superintendent to determine the diagnostic or treatment services or procedures and to direct the giving of the diagnostic or treatment services or procedures.

(b) as to subsection (2) by adding after the figure "9" the figure ", 9a".

**11. Section 15, subsection (4) presently reads:**

(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.

**12. Section 17, subsection (1) presently reads:**

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.

**13. Section 33, clause (b) presently reads:**

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

.....  
(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,

**14. Section 35, clause (b) presently reads:**

35. No action lies against any person

.....  
(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

**15. Commencement of Act.**



**11.** Section 15 is amended by striking out subsection (4) and by substituting the following:

(4) For each review panel the Minister may appoint one or more alternate members for each member 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 an 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.

**12.** Section 17, subsection (1), clause (a) is amended by striking out the words "section 5, 6 or 8" and by substituting the words "section 5, 6, 8 or 9a".

**13.** Section 33, clause (b) is amended by adding after the figure "9" the figure ", 9a".

**14.** Section 35, clause (b) is amended by adding after the figure "8," the figure "9a,".

**15.** This Act comes into force on the day upon which it is assented to.

No. 40

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THIRD SESSION  
FIFTEENTH LEGISLATURE  
14 ELIZABETH II  
1966

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**BILL**

An Act to amend The Mental  
Health Act

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Received and read the

First time .....

Second time .....

Third time .....

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HON. DR. ROSS

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