

1968 Bill 52

First Session, 16th Legislature, 17 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 52

An Act to amend The Mental Health Act

THE MINISTER OF HEALTH

First Reading

Second Reading

Third Reading

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1968

An Act to amend The Mental Health Act

(Assented to , 1968)

HER 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 2 is amended

- (a) by relettering clause (a) as clause (a1),
- (b) by adding the following immediately before the relettered clause (a1):
 - (a) "certificate" means a medical certificate recommending the care, supervision and control of a mentally disordered person in a hospital;

3. The following new section is added after section 2:

2a. A person shall not be dealt with under this Act as a mentally disordered person because of promiscuity or other immoral conduct.

4. Section 7 is amended

- (a) by adding the following subsection after subsection (2):
 - (2a) If the person named in a certificate issued under subsection (1) is not admitted to a hospital within 72 hours of the time of the issue of the certificate (as shown thereon), the certificate ceases to be authority
 - (a) to take or detain that person in custody, or
 - (b) to convey that person to a hospital, or
 - (c) to admit that person to a hospital.
- (b) as to subsection (3), by striking out the words "a certificate" and by substituting the words "a renewal certificate".

5. Section 8, subsection (6) is amended by striking out the words "a certificate" and by substituting the words "a renewal certificate".

Explanatory Notes

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

2. Definition added.

3. Self-explanatory.

4. Section 7 reads:

7. (1) Where, in the opinion of one examining physician,
(a) it is essential that a mentally disordered person,
(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 sixty days from the date of issue of the certificate.

5. Section 8 (6) presently reads:

- (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.

6. Section 9 is amended by striking out subsection (2).

7. Section 9a is amended

(a) by striking out subsection (1) and by substituting the following:

9a. (1) Subject to the regulations,

(a) a person in custody in a provincial gaol may, on the authorization of the Attorney General, be transferred to a provincially operated hospital and admitted thereto for medical examination, and

(b) a mentally disordered person sentenced or committed to a penitentiary under the *Penitentiary Act* (Canada) may be admitted to a provincially operated hospital on the authorization of the Commissioner of Penitentiaries, and, subject to subsection (2) may be detained therein.

(b) as to subsection (2) by striking out the words "the certificate" and by substituting the words "the certificates".

8. Section 11 is amended by adding after the word "certificate" wherever it occurs the words "or renewal certificate".

9. Section 17, subsection (1) is amended by striking out the words "ought not to have been issued or that it".

10. Section 25, subsection (2) is amended by adding after the word "certificates" wherever it occurs the words "or renewal certificates".

11. Section 32, subsection (1) is amended by striking out the word "certificates" and by substituting the words "a certificate of approval".

12. Section 35 is amended

(a) by striking out clause (b) and by substituting the following:

(b) who signs a certificate or renewal certificate or does any act to cause a certificate or renewal certificate to be signed or who otherwise acts under the authority of section 5, 6, 7, 8, 9, 9a, 12 or 24, or

(b) by adding the word "or" at the end of clause (d) and by adding the following clause:

6. Section 9 (2) presently reads:

(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).

See Clause 7 of this Bill.

7. Section 9a (1) and (2) presently read:

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.

(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.

8. A reference to renewal certificates is added because of the addition of a definition of certificate in section 2 of the Act.

9. Section 17 (1) presently reads:

17. (1) A person in respect of whom

(a) a certificate has been issued under section 5, 6, 8 or 9a, 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.

10. Section 25 presently reads:

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.

(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.

11. Section 32 (1) presently reads:

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.

12. Section 35 (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, 9a, 12 or 24 or who otherwise acts under the authority of any of those sections, or

.....
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.

(e) who is a member of a review panel for any act done in the course of his duties as a member of the panel,

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

