

INVOLUNTARY COMMITMENT AND RIGHTS OF THE
MENTALLY RETARDED JOINT SUBCOMMITTEE
OF THE
SENATE STANDING COMMITTEE ON JUDICIARY
AND THE
HOUSE STANDING COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT

Submitted to the General Assembly

January, 1980

F I N A L R E P O R T
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January, 1980

The Involuntary Commitment and Rights of the Mentally Retarded Joint Subcommittee met three times during the 1979 interim as authorized by the Legislative Council. Members of the Subcommittee were:

Senator Lucas J. DeKoster, Co-chairperson
Representative Doug Ritsema, Co-chairperson
Senator Patrick J. Deluhery
Senator Julia B. Gentleman
Senator John S. Murray
Senator John Scott
Representative Robert C. Arnould
Representative Lee Holt
Representative John Pelton
Representative Craig Walter

Areas of Concentration

The Subcommittee concentrated its work in two areas: needed changes to chapter 229 of the Code relating to hospitalization of the mentally ill; and the problem of the mentally disabled criminal offender.

At its first meeting the Subcommittee discussed areas of concern raised by several sources with regard to chapter 229 of the Code regarding hospitalization of the mentally ill. At its second meeting the Subcommittee discussed a preliminary bill draft amending chapter 229 and heard testimony regarding the problems presented by the presence of mentally disabled offenders within the criminal justice system, what is presently being done, and what should be done to alleviate these problems. At its final meeting the Subcommittee, after hearing recommendations of the Committee on Law and Behavior Sciences of the Iowa State Bar Association concerning juvenile commitment procedures, approved a bill relating generally to the hospitalization of mentally ill persons which combined portions of the Bar Association bill and the study bill previously drafted. The Subcommittee also heard from Dr. Michael Reagen, the Commissioner of the Department of Social Services, who presented the Department's newly proposed program to deal with mentally disabled offenders. The American Bar Association Model Developmentally Disabled Offenders Act was examined and the Subcommittee discussed whether it wished to recommend legislation.

Recommendations

1. The Joint Subcommittee recommends the attached bill relating to hospitalization of mentally ill persons to the Senate Standing Committee on Judiciary and the House Standing Committee on Judiciary and Law Enforcement.

The bill makes several miscellaneous amendments to the chapter on hospitalization of the mentally ill, including technical and substantive changes.

Perhaps of greatest significance is the addition of a new division relating to the hospitalization of minors. It adds additional criteria to the definition of "seriously mentally impaired" or "serious mental impairment" as applied to minors. It creates the presumption that a minor fourteen years of age or older is capable of objecting to the minor's voluntary admission to a hospital by the minor's parent or guardian and conversely, the presumption that a minor under fourteen years of age is incapable of such objection. Either the minor or the parent or guardian may request a court hearing to overcome a presumption. If a minor is found capable of objecting to the admission and does object, the parent or guardian must then file an application for involuntary hospitalization pursuant to present Code provisions. If a minor is admitted without objection by the minor or after having been found incapable of objecting, an advocate must be appointed by the court to represent the minor. If the advocate feels the admission is inappropriate and contrary to the best interests of the minor, the advocate shall request the court to appoint counsel for the minor.

Other changes to the chapter include defining "licensed physician" to include osteopaths, extending some time limitations and providing that psychiatric evaluations of persons found to be seriously mentally impaired may take place in a suitable facility other than a hospital. The powers and duties of the advocate are expanded and clearly set out. Incorrect internal references are corrected.

2. The Subcommittee does not recommend legislation concerning the mentally disabled offender. There was insufficient time to develop comprehensive legislation on the subject and the Subcommittee also prefers to await the results of the implementation of the Department of Social Service's new program before enacting comprehensive legislation. Many suggestions for change and problems were presented at the meetings and discussed. Individually sponsored bills relating to these topics may be introduced.

The Subcommittee did recommend that a letter be sent by the Co-chairpersons on behalf of the Subcommittee to the Chief Justice of the Supreme Court of Iowa, the Director of the Division of Adult Corrections and the Director of the Iowa Law Enforcement Academy urging that training be required of court, law enforcement and corrections employees in the recognition, causes, problems and available treatment of mental disabilities.

PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED SENATE COMMITTEE ON
JUDICIARY AND HOUSE COMMITTEE
ON JUDICIARY AND LAW ENFORCEMENT
BILL RECOMMENDED BY THE INVOLUN-
TARY COMMITMENT AND RIGHTS OF
THE MENTALLY RETARDED SUBCOMMITTEE)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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

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1 Section 1. Section two hundred twenty-nine point one
2 (229.1), subsections two (2) and six (6), Code 1979, are
3 amended to read as follows:

4 2. "Seriously mentally impaired" or "serious mental
5 impairment" with regard to an adult describes the condition
6 of a person who is afflicted with mental illness and because
7 of that illness lacks sufficient judgment to make responsible
8 decisions with respect to his or her hospitalization or
9 treatment, and who is either of the following:

10 a. ~~is-likely~~ Likely to physically injure himself or herself
11 or others if allowed to remain at liberty without treatment,
12 ~~or.~~

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

18 "Seriously mentally impaired" or "serious mental impairment"
19 with regard to a minor describes the condition of a minor
20 who is afflicted with mental illness and who is any of the
21 following:

22 a. Likely to physically injure himself or herself or
23 others if allowed to remain at liberty without treatment.

24 b. Likely to inflict serious emotional injury on members
25 of his or her family or others who lack reasonable opportunity
26 to avoid contact with the minor if the minor is allowed to
27 remain at liberty without treatment.

28 c. In need of treatment to cure or alleviate serious
29 mental illness or emotional damage, as evidenced by severe
30 anxiety, severe depression, severe withdrawal or severe
31 untoward aggressive behavior toward self or others.

32 6. "Licensed physician" means an individual licensed under
33 the provisions of chapter 148 or one hundred fifty A (150A)
34 of the Code to practice medicine and surgery or osteopathic
35 medicine and surgery.

1 Sec. 2. Section two hundred twenty-nine point two (229.2),
2 subsection one (1), Code 1979, is amended to read as follows:

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

17 Sec. 3. Section two hundred twenty-nine point four (229.4),
18 subsections one (1) and two (2), Code 1979, are amended to
19 read as follows:

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

24 2. If the patient is a minor who was admitted voluntarily
25 on the application of his or her parent or guardian pursuant
26 to ~~section-229-2,-subsection-1~~ sections twelve (12) through
27 eighteen (18) of this Act, his or her release prior to becoming
28 eighteen years of age may be conditioned upon the consent
29 of the parent or guardian, ~~or-upon-the-approval-of-the-juvenile~~
30 ~~court-if-the-admission-was-approved-by-the-juvenile-court,~~
31 ~~and.~~

32 Sec. 4. Section two hundred twenty-nine point ten (229.10),
33 subsection one (1), unnumbered paragraph one (1), Code 1979,
34 is amended to read as follows:

35 An examination of the respondent shall be conducted by

1 one or more licensed physicians, as required by the court's
2 order, within a reasonable time. If the respondent is taken
3 ~~into-custody-under~~ detained pursuant to section 229.11,
4 subsection two (2) of the Code, the examination shall be
5 conducted within twenty-four hours. If the respondent is
6 detained pursuant to section two hundred twenty-nine point
7 eleven (229.11), subsection one (1) or three (3) of the Code,
8 the examination shall be conducted within forty-eight hours.
9 If the respondent so desires, he or she shall be entitled
10 to a separate examination by a licensed physician of his or
11 her own choice. The reasonable cost of such separate
12 examination shall, if the respondent lacks sufficient funds
13 to pay the cost, be paid from county funds upon order of the
14 court.

15 Sec. 5. Section two hundred twenty-nine point ten (229.10),
16 subsection two (2), unnumbered paragraph one (1), Code 1979,
17 is amended to read as follows:

18 A written report of the examination by the court-designated
19 physician or physicians shall be filed with the clerk prior
20 to the time set for hearing date. A written report of any
21 examination by a physician chosen by the respondent may be
22 similarly filed. The clerk shall immediately:

23 Sec. 6. Section two hundred twenty-nine point thirteen
24 (229.13), Code 1979, is amended to read as follows:

25 229.13 HOSPITALIZATION FOR EVALUATION. If upon completion
26 of the hearing the court finds that the contention that the
27 respondent is seriously mentally impaired has been sustained
28 by clear and convincing evidence, it shall order the respondent
29 placed in a hospital or other suitable facility as
30 expeditiously as possible for a complete psychiatric evaluation
31 and appropriate treatment. The court shall furnish to the
32 hospital or facility at the time the respondent arrives there
33 a written finding of fact setting forth the evidence on which
34 the finding is based. The chief medical officer of the
35 hospital or facility shall report to the court no more than

1 fifteen days after the individual is admitted to the hospital
2 or facility, making a recommendation for disposition of the
3 matter. An extension of time may be granted for not to exceed
4 seven days upon a showing of cause. A copy of the report
5 shall be sent to the respondent's attorney, who may contest
6 the need for an extension of time if one is requested.

7 Extension of time shall be granted upon request unless the
8 request is contested, in which case the court shall make such
9 inquiry as it deems appropriate and may either order the
10 respondent's release from the hospital or facility or grant
11 extension of time for psychiatric evaluation.

12 Sec. 7. Section two hundred twenty-nine point nineteen
13 (229.19), Code 1979, is amended to read as follows:

14 229.19 ADVOCATE APPOINTED. The district court in each
15 county shall appoint an individual who has demonstrated by
16 prior activities an informed concern for the welfare and
17 rehabilitation of the mentally ill, and who is not an officer
18 or employee of the department of social services nor of any
19 agency or facility providing care or treatment to the mentally
20 ill, to act as advocate representing the interests of all
21 patients involuntarily hospitalized by that court, in any
22 matter relating to the patients' hospitalization or treatment
23 under sections 229.14 or 229.15. The advocate's responsibility
24 with respect to any patient shall begin at whatever time the
25 attorney employed or appointed to represent that patient as
26 respondent in hospitalization proceedings, conducted under
27 sections 229.6 to 229.13, reports to the court that his or
28 her services are no longer required and requests the court's
29 approval to withdraw as counsel for that patient. However,
30 if the patient is found to be seriously mentally impaired
31 at the hospitalization hearing, the attorney representing
32 the patient shall automatically be relieved of his or her
33 responsibility in the case and an advocate shall be appointed
34 at the conclusion of the hearing unless the attorney indicates
35 an intent to continue his or her services and the court so

1 directs. If the court directs the attorney to remain on the
2 case he or she shall assume all the duties of an advocate.
3 The clerk shall furnish the advocate with a copy of the court's
4 order approving the withdrawal and shall inform the patient
5 of the name of the patient's advocate. The With regard to
6 each patient whose interests the advocate is required to
7 represent pursuant to this section, the advocate's duties
8 shall include reviewing each report submitted pursuant to
9 sections 229.14 and 229.15 concerning any patient whose
10 interests, as a patient, the advocate is required to represent
11 under this section, and if the advocate is not an attorney,
12 advising the court at any time it appears that the services
13 of an attorney are required to properly safeguard the patient's
14 interests, all of the following:

- 15 1. To review each report submitted pursuant to sections
16 two hundred twenty-nine point fourteen (229.14) and two hundred
17 twenty-nine point fifteen (229.15) of the Code.
- 18 2. If the advocate is not an attorney, to advise the court
19 at any time it appears that the services of an attorney are
20 required to properly safeguard the patient's interests.
- 21 3. To make himself or herself readily accessible to
22 communications from the patient.
- 23 4. To visit the patient within fifteen days of the
24 patient's commitment and periodically thereafter.
- 25 5. To communicate with medical personnel treating the
26 patient and to review the patient's medical records pursuant
27 to section two hundred twenty-nine point twenty-five (229.25)
28 of the Code.
- 29 6. To file with the court quarterly reports, and additional
30 reports as the advocate feels necessary or as required by
31 the court, in a form prescribed by the court. The reports
32 shall state what actions the advocate has taken with respect
33 to each patient and the amount of time spent.

34 The hospital or facility to which a patient is committed
35 shall grant all reasonable requests of the advocate to visit

1 the patient, to communicate with medical personnel treating
2 the patient and to review the patient's medical records
3 pursuant to section two hundred twenty-nine point twenty-five
4 (229.25) of the Code. An advocate shall not disseminate
5 information from a patient's medical records to any other
6 person unless done for official purposes in connection with
7 the advocate's duties pursuant to this chapter or when required
8 by law.

9 PARAGRAPH DIVIDED. The court shall from time to time
10 prescribe reasonable compensation for the services of the
11 advocate. Such compensation shall be based upon the reports
12 filed by the advocate at-such-times-and-in-such-forms-as with
13 the court shall-prescribe. The-report-shall-briefly-state
14 what-the-advocate-has-done-with-respect-to-each-patient-and
15 the-amount-of-time-spent. The advocate's compensation shall
16 be paid on order of the court from the county mental health
17 and institutions fund of the county in which the court is
18 located.

19 Sec. 3. Section two hundred twenty-nine point twenty
20 (229.20), Code 1979, is amended to read as follows:

21 229.20 RESPONDENTS CHARGED WITH OR CONVICTED OF CRIME.

22 1. If the court orders a respondent placed in a hospital
23 or other suitable facility for psychiatric evaluation and
24 appropriate treatment at a time when the respondent has been
25 convicted of a public offense, or when there is pending against
26 the respondent an unresolved formal charge of a public offense,
27 and the respondent's liberty has therefore been restricted
28 in any manner, the finding of fact required by section 229.13
29 of-this-Act shall clearly so inform the chief medical officer
30 of the hospital where the respondent is placed.

31 2. When a proceeding under section 229.6 and succeeding
32 sections of this chapter arises under sections-783-5-ex-789-8
33 R.Cr.P. 22(3)(c), and the respondent through his or her
34 attorney waives the hearing otherwise required by section
35 229.12, the court may immediately order the respondent placed

1 in a hospital or other suitable facility for a complete
2 psychiatric evaluation and appropriate treatment pursuant
3 to section 229.13. In such cases, the court may in its
4 discretion order or waive the physician's examination otherwise
5 required under section 229.10.

6 Sec. 9. Section two hundred twenty-nine point twenty-
7 one (229.21), subsection one (1), Code 1979, is amended to
8 read as follows:

9 1. As soon as practicable after ~~the adoption of this Act~~
10 January 1, 1976 the judges in each judicial district shall
11 meet and shall determine, individually for each county in
12 the district, whether it appears that one or more district
13 judges will be sufficiently accessible in that county to make
14 it feasible for them to perform at all times the duties
15 prescribed by sections 229.7 to 229.20 and by ~~sections 229.20,~~
16 ~~subsections 17-27-5 and 9 (1977)~~ sections two hundred twenty-
17 nine point fifty-one (229.51) to two hundred twenty-nine point
18 fifty-three (229.53) of the Code. If the judges find that
19 accessibility of district court judges in any county is not
20 sufficient for this purpose, the chief judge of the district
21 shall appoint in that county a judicial hospitalization
22 referee. The judges in any district may at any time review
23 their determination, previously made under this subsection
24 with respect to any county in the district, and pursuant to
25 that review may authorize appointment of a judicial
26 hospitalization referee, or abolish the office, in that county.

27 Sec. 10. Section two hundred twenty-nine point twenty-
28 five (229.25), Code 1979, is amended to read as follows:

29 229.25 MEDICAL RECORDS TO BE CONFIDENTIAL--EXCEPTIONS.
30 The records maintained by a hospital or other facility relating
31 to the examination, custody, care and treatment of any person
32 in that hospital or facility pursuant to this chapter shall
33 be confidential, except that the chief medical officer may
34 shall release appropriate information when under any of the
35 following circumstances:

1 1. The information is requested by a licensed physician
2 ~~or, attorney or advocate~~ who provides the chief medical officer
3 with a written waiver signed by the person about whom the
4 information is sought, ~~or,~~

5 2. The information is sought by a court order, ~~or,~~

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

11 4 3. The person who is hospitalized or that person's
12 guardian, if the person is a minor or is not legally competent
13 to do so, signs an informed consent to release information.
14 Each signed consent shall designate specifically the person
15 or agency to whom the information is to be sent, and the
16 information may be sent only to that person or agency.

17 Such records may be released by the chief medical officer
18 when requested for the purpose of research into the causes,
19 incidence, nature and treatment of mental illness, however
20 information shall not be provided in a way that discloses
21 patients' names or which otherwise discloses any patient's
22 identity.

23 Sec. 11. Chapter two hundred twenty-nine (229), Code 1979,
24 is amended by adding sections twelve (12) through eighteen
25 (18) of this Act, which shall be codified as a separate
26 division of the chapter entitled HOSPITALIZATION OF MINORS.

27 Sec. 12. NEW SECTION. SCOPE OF DIVISION. All provisions
28 of this chapter shall apply to the hospitalization of minors
29 except as otherwise provided in this division.

30 Sec. 13. NEW SECTION. REBUTTABLE PRESUMPTION FOR VOLUNTARY
31 ADMISSIONS. When a request for voluntary mental health
32 services is made on behalf of a minor by a parent or guardian
33 of the minor, the following rebuttable presumptions apply
34 unless overcome at a hearing pursuant to section fifteen (15)
35 of this Act:

1 1. A minor, age fourteen years or over, is presumed capable
2 of objecting to the admission and if the minor does object,
3 may be admitted only involuntarily pursuant to section two
4 hundred twenty-nine point six (229.6) of the Code.

5 2. A minor, age thirteen years or under is presumed
6 incapable of objecting to the admission and if the chief
7 medical officer finds the request appropriate, the minor will
8 be admitted despite the minor's objection.

9 Sec. 14. NEW SECTION. PROCEDURE FOR VOLUNTARY ADMISSION
10 OF MINOR.

11 1. A minor's parent or guardian may make application to
12 a public or private hospital for admission of the minor as
13 a voluntary patient.

14 2. Upon receipt of an application for voluntary admission
15 of a minor, the chief medical officer shall provide separate
16 prescreening interviews and consultations with the parent
17 or guardian and the minor to assess the family environment
18 and the appropriateness of the application for admission.

19 3. During the interview and consultation with the minor
20 and with the parent or guardian, the chief medical officer
21 shall inform each of the presumptions set forth in section
22 thirteen (13) of this Act, the meaning of the presumptions
23 and that either the minor or the parent or guardian may request
24 a court hearing to overcome the presumptions.

25 Sec. 15. NEW SECTION. CAPABILITY HEARING--FILING
26 PROCEDURE.

27 1. If a parent or guardian desires to contest a presumption
28 set out in section thirteen (13) of this Act, he or she may
29 do so by filing an application pursuant to subsection three
30 (3) of this section. Upon the filing of the application,
31 the juvenile court shall appoint an attorney for the minor
32 to represent him or her in the capability hearing.

33 2. If a minor desires to contest a presumption set out
34 in section thirteen (13) of this Act, the chief medical officer
35 shall notify the juvenile court at the earliest practicable

1 time. The court shall appoint an attorney to represent the
2 minor who shall counsel as soon as possible with the minor.
3 The attorney shall file an application for a capability hearing
4 pursuant to subsection three (3) of this section on behalf
5 of the minor if the minor desires the filing and there is
6 evidence to support the application.

7 3. Proceedings for a capability hearing shall be commenced
8 by filing a verified application with the clerk of the juvenile
9 court in the county of residence of the parent or guardian
10 or of the minor. The clerk shall assist the applicant in
11 completing the application, which shall include:

12 a. A statement of the applicant's objection to the
13 presumption for voluntary admission set forth in section
14 thirteen (13) of this Act.

15 b. A statement of any pertinent facts corroborating the
16 application.

17 4. Upon the filing of the application, the clerk shall
18 docket the case and immediately notify the juvenile court
19 judge who shall review the application. If the application
20 is adequate as to form, the judge shall set a time and place
21 for a hearing not less than forty-eight hours, excluding
22 Saturdays, Sundays and holidays, after notice to the minor,
23 if the application is filed under subsection one (1) of this
24 section, or after notice to the parent or guardian if the
25 application is filed under subsection two (2) of this section,
26 unless the person to whom the notice is given waives such
27 minimum prior notice requirement. The judge shall direct
28 the clerk to send copies of the application, together with
29 notice informing the person of the procedures required by
30 this chapter, to the sheriff or his or her deputy for immediate
31 service upon the person.

32 Sec. 16. NEW SECTION. CAPABILITY HEARING--EVIDENCE.

33 1. At the capability hearing, the minor and the parent
34 or guardian shall be afforded an opportunity to testify and
35 to present and cross-examine witnesses, and the court may

1 receive the testimony of any other interested person. The
2 minor shall be present at the hearing unless the court believes
3 that his or her presence is likely to be injurious to the
4 minor. All persons not necessary for the conduct of the
5 proceeding shall be excluded, except that the court may admit
6 persons having a legitimate interest in the proceeding. The
7 minor's welfare shall be paramount and the hearing shall be
8 conducted as a civil matter in as informal a manner as may
9 be consistent with orderly procedure. The court shall receive
10 all relevant and material evidence which may be offered and
11 need not be bound by the rules of evidence.

12 2. The presumption set forth in section thirteen (13),
13 subsection one (1) of this Act may be overcome by showing
14 that the minor lacks the mental capacity and maturity exercised
15 by the average minor fourteen years of age or older.

16 3. The presumption set forth in section thirteen (13),
17 subsection two (2) of this Act may be overcome by showing
18 that the minor possesses the mental capacity and maturity
19 exercised by the average minor fourteen years of age or older.

20 Sec. 17. NEW SECTION. CAPABILITY HEARING--FINDINGS.

21 1. If, after hearing, the juvenile court finds probable
22 cause to believe that the minor is incapable of objecting
23 to the admission decision, the court shall direct the minor
24 to the chief medical officer of the hospital and shall inform
25 the chief medical officer of the decision. The chief medical
26 officer shall then admit the minor if in his or her medical
27 judgment the minor is mentally ill and can benefit from the
28 admission.

29 2. If, after hearing, the juvenile court finds probable
30 cause to believe that the minor is capable of making the
31 admission decision and the minor continues to object to the
32 admission, the court shall discharge the minor and so inform
33 the chief medical officer. The court shall further notify
34 the parent or guardian of the right to file involuntary
35 commitment proceedings pursuant to section two hundred twenty-

1 nine point six (229.6) of the Code.

2 Sec. 18. NEW SECTION. APPOINTMENT OF ADVOCATE FOR MINOR.

3 If a minor is voluntarily admitted by the minor's parent or
4 guardian without objection by the minor or is admitted after
5 being found incapable of objecting to the admission, the chief
6 medical officer shall notify the district court in the county
7 where the hospital is located by the close of business on
8 the next working day. The district court shall immediately
9 appoint an advocate for the minor who shall have the powers
10 and duties set forth in section two hundred twenty-nine point
11 nineteen (229.19) of the Code. In addition, the advocate
12 shall, within five days of the appointment, investigate the
13 reasons for the minor's admission. If the advocate feels
14 the admission is inappropriate and contrary to the best
15 interests of the minor, the advocate shall request the court
16 to appoint counsel for the minor.

17 Sec. 19. This Act is effective January first following
18 its enactment.

19 EXPLANATION

20 This bill makes several miscellaneous amendments to the
21 chapter on hospitalization of the mentally ill, including
22 technical and substantive changes.

23 Perhaps of greatest significance is the addition of a new
24 division relating to the hospitalization of minors. It adds
25 additional criteria to the definition of "seriously mentally
26 impaired" or "serious mental impairment" as applied to minors.
27 It creates the presumption that a minor fourteen years of
28 age or older is capable of objecting to the minor's voluntary
29 admission to a hospital by the minor's parent or guardian
30 and conversely, the presumption that a minor under fourteen
31 years of age is incapable of such objection. Either the minor
32 or the parent or guardian may request a court hearing to
33 overcome a presumption. If a minor is found capable of
34 objecting to the admission and does object, the parent or
35 guardian must then file an application for involuntary

1 hospitalization pursuant to present code provisions. If a
2 minor is admitted without objection by the minor or after
3 having been found incapable of objecting, an advocate must
4 be appointed by the court to represent the minor. If the
5 advocate feels the admission is inappropriate and contrary
6 to the best interests of the minor, the advocate shall request
7 the court to appoint counsel for the minor.

8 Other changes to the chapter include defining "licensed
9 physician" to include osteopaths, extending some time
10 limitations and providing that psychiatric evaluations of
11 persons found to be seriously mentally impaired may take place
12 in a suitable facility other than a hospital. The powers
13 and duties of the advocate are expanded and clearly set out.
14 Incorrect internal references are corrected.

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