

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 21
IN THE LEGISLATURE OF THE TERRITORY OF ALASKA
TWENTY-THIRD SESSION

A BILL

For an Act entitled: "An Act to provide for the commitment,
hospitalization and care of the mentally
ill; to designate the Department of Health
as the Mental Health Authority of Alaska;
providing for the repeal of certain sta-
tutes; declaring an emergency and providing
for an effective date and for other pur-
poses."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

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18
19 Section 100. PURPOSE. The purpose of this Act is to estab-
20 lish and provide modern procedures for the commitment, hospitali-
21 zation, care and treatment of the mentally ill, and to establish
22 a Mental Health Authority.

23 Section 101. DEFINITIONS. When used in this Act, unless
24 otherwise expressly stated or unless the context or subject
25 matter requires:

26 (a) "Alaska" means the Territory of Alaska or, in
27 the event Congress grants statehood, the State of Alaska.

28 (b) The term "designated examiner" means a licensed
29 physician designated by the Department as specially qualified;

1 under standards established by it for the purpose of this Act,
2 in the diagnosis of mental illness; provided, that for areas in
3 which no licensed physician so qualified is available, any
4 licensed physician may be designated.

5 (c) "Board" means the Board of Health created by
6 Section 40-1-3, ACLA 1949, as amended, or its designee.

7 (d) "Department" means the Department of Health,
8 created by Section 40-1-2, ACLA 1949, as amended, or its designee.

9 (e) "Head of a hospital" means the individual in
10 charge of a hospital, or his designated representative, except
11 that when the individual or his designee in charge of a hospital
12 is not a licensed physician, authority placed in the head of a
13 hospital by this Act (which involves in major part the exercise
14 of medical judgment) shall be exercised by such licensed medical
15 official of the hospital as shall be designated by the individual
16 in charge of the hospital.

17 (f) "Hospital" means a public or private hospital or
18 institution, or any part thereof, located in Alaska or in any
19 state, equipped and otherwise qualified to provide care and
20 treatment for the mentally ill.

21 (g) "Individual", as used in Sections 103, 104 and
22 105 of this Act, means a resident of, or a person in, Alaska.

23 (h) "Mentally ill individual" means an individual
24 having a psychiatric or other disease which substantially impairs
25 his mental health; including an individual who is mentally defi-
26 cient or senile by reason of cerebral arteriosclerosis or deteria-
27 tion of the brain; or a severe alcoholic or an addict.

28 (i) "Interested party" or "Interested parties" includes
29 the legal guardian, spouse, parent or parents, adult children,

1 local guardian, spouse, parent or parents, adult children, or next
2 of kin of an allegedly mentally ill individual or patient.

3 (j) "Licensed physician" means an individual licensed
4 under the laws of Alaska to practice medicine; a medical officer
5 of the Government of the United States while in Alaska in the
6 performance of his official duties; or a medical officer of the
7 Territory of Alaska; or a physician licensed under the laws of a
8 state.

9 (k) "Mentally ill individual" means an individual
10 having a psychiatric or other disease which substantially impairs
11 his mental health; including an individual who is mentally defi-
12 cient or senile by reason of cerebral arteriosclerosis or deteria-
13 tion of the brain; or a severe alcoholic or an addict.

14 (l) "Patient" means a resident of, or person in,
15 Alaska, qualified under this Act for hospitalization as a men-
16 tally ill individual.

17 (m) "Peace Officer", when used in connection with
18 cases which involve individuals who, because of mental illness,
19 are likely to injure themselves or others if allowed to remain
20 at liberty, includes any Territorial police officer, municipal
21 or other local police officer, Territorial, municipal, or other
22 local health officer, Public Health nurse, U. S. Marshal or
23 Deputy U. S. Marshal, or a person deputized by a Commissioner.

24 (n) "Resident of Alaska" means (i) a person who has
25 been physically present and lived continuously in Alaska for one
26 year immediately preceding his admission as a patient or immedi-
27 ately preceding his becoming a proposed patient, or (ii) a person
28 who has shown an intention to make Alaska his home for an inde-
29 finite period of time and has lived in Alaska. Such intention

1 a child under twenty-one years shall take the residence of the
2 parent or guardian with whom actually living.

3 (n) "State" or "states" includes all states of the
4 United States, the District of Columbia, the territories and
5 possessions of the United States, and the Commonwealth of Puerto
6 Rico, and, with the approval of the United States Congress,
7 Canada.

8 (o) "Commissioner" means a United States Commissioner
9 acting in the capacity of an ex officio probate judge and
10 appointed pursuant to Section 6 of the Act of June 6, 1900
11 (31 Stat. 323; 48 U.S.C.A., Sec. 104), or his successor or equiva-
12 lent serving in the office of probate judge in the event Alaska
13 becomes a state.

14 Section 102. DEPARTMENT DESIGNATED AS MENTAL HEALTH
15 AUTHORITY; POWERS AND DUTIES THEREOF. The Department is hereby
16 designated as the mental health authority of Alaska, and is
17 hereby authorized and directed, through the Commissioner of
18 Health or his designee, to develop and submit to the Surgeon
19 General of the United States Public Health Service, and to admini-
20 ster, a complete and comprehensive program for the prevention of
21 mental illness and the care and treatment of persons who are
22 mentally ill, including inpatient and outpatient care and treat-
23 ment of such persons, and to take such actions and undertake such
24 obligations as may be necessary to participate in any Federal
25 grant-in-aid program and to accept Federal or other financial aid
26 from whatever sources for the study, examination, care and treat-
27 ment of the mentally ill, and the Department, through the Com-
28 missioner of Health or his designee, is particularly authorized
29 to take full advantage of the provisions of the Alaska Mental

1 Health Enabling Act (P. L. 830, 84th Congress, 2nd Session, 70
2 Stat. 709).

3 Except insofar as this Act specifically confers certain
4 powers, duties, and functions upon others, the Department, through
5 the Commissioner of Health or his designee, shall be charged with
6 the administration of this Act. In addition to such authority
7 as may be conferred upon it by other sections of this Act, the
8 Department, through the Commissioner of Health or his designee,
9 is hereby authorized to

10 (a) designate, operate, and maintain hospitals and
11 other health facilities equipped and otherwise qualified to pro-
12 vide inpatient and outpatient care and treatment for individuals
13 who are mentally ill;

14 (b) (i) take such action as may be necessary to carry
15 out a program for the prevention of mental illness or for the
16 furnishing of inpatient and outpatient care and treatment for
17 persons who are mentally ill, including the procurement of ser-
18 vices of specialists or other persons on a contractual or other
19 basis; (ii) provide for the hospitalization of mentally ill
20 patients in designated hospitals; (iii) enter into arrangements
21 with the Surgeon General of the Public Health Service for the
22 care and treatment of such patients in hospitals of the Public
23 Health Service in Alaska or in any state; (iv) negotiate and enter
24 into contracts with any hospital for the care and treatment of
25 such patients; (v) negotiate and enter into contracts, which shall
26 incorporate safeguards consistent with the provisions of this Act
27 and the preservation of the civil rights of the patients, with
28 any state for the care and treatment of such patient or patients
29 previously committed from Alaska pursuant to 48 U.S.C.A. 46, et

1 seq., and P. L. 830, 84th Congress, 2nd Session, 70 Stat. 709;

2 (c) prescribe the form of applications, records, re-
3 ports, and medical certificates required by this Act, and the
4 information to be contained therein;

5 (d) require reports from the head of a hospital con-
6 cerning the care of patients;

7 (e) visit each hospital to review methods of care for
8 all patients;

9 (f) investigate complaints made by a patient or an
10 interested party on behalf of a patient;

11 (g) delegate to any officer or agency of Alaska, or
12 any political subdivision thereof, or any hospital designated,
13 any of the duties and powers imposed upon it by this Act; and

14 (h) provide for and pay the costs of transportation of
15 patients and of such attendants as may be needed, where trans-
16 portation is necessary for the purpose of securing appropriate
17 examinations or hospitalization of such patients, or for returning
18 a patient discharged or paroled from a hospital to his home or
19 place of convalescence.

20 Section 103. AUTHORITY TO RECEIVE PATIENTS. The head of
21 any hospital which has been designated by the Department pursuant
22 to Section 102 is authorized to receive therein for observation,
23 diagnosis, care, and treatment any individual whose admission is
24 applied for by one of the following means:

25 (a) On voluntary application by patient. Any indivi-
26 dual who is mentally ill or who has symptoms of mental illness
27 but who has sufficient insight or capacity to make responsible
28 application for admission and who, being eighteen years of age
29 or over, applies therefor personally or by representative, may

1 be admitted to a hospital for mental observation, care, and treat-
2 ment if such is believed to be necessary by the head of a hospi-
3 tal. The basis for accepting an applicant shall be noted on his
4 medical record.

5 (b) On application by guardian of minor persons. Any
6 individual under eighteen years of age who is mentally ill may
7 be admitted to a hospital if his parent or legal guardian applies
8 therefor in his behalf.

9 (c) On application by others. Any individual, includ-
10 ing minors, may be admitted to a hospital for observation, care,
11 and treatment if necessary, upon application by an interested
12 party, by a peace officer, by the Department, or by the head of
13 any institution in which the individual may be, if the applica-
14 tion is accompanied by a certificate of a licensed physician
15 stating that on the basis of an examination held not more than
16 fifteen days prior to the individual's admission, such individual
17 is in his opinion mentally ill, and because of his illness either
18 (i) is likely to injure himself or others if allowed to remain
19 at liberty, or (ii) being in need of immediate custody and care
20 or treatment in a hospital, lacks sufficient insight or capacity
21 to make responsible application on his own behalf.

22 Section 104. EMERGENCY HOSPITALIZATION.

23 (a) With medical certification and endorsement. If
24 the certificate by a licensed physician under Section 103(c)
25 states a belief that the individual is (i) likely to injure him-
26 self or others if allowed to remain at liberty, or (ii) is in
27 need of immediate hospitalization, any interested party or peace
28 officer shall have authority, upon endorsement of the certificat-
29 for such purpose by the Department or by a Commissioner, to take

1 the individual into custody, apply to a designated hospital for
2 his admission, and transport him thereto.

3 (b) Without medical certification or endorsement. Any
4 interested party or peace officer who has good and valid reason
5 to believe that an individual is mentally ill, and because of
6 his illness is likely to injure himself or others if not immedi-
7 ately restrained, pending examination or certification by a
8 licensed physician or pending endorsement of such certification
9 as provided in subsection (a) of this section, may take the
10 individual into custody, apply to a designated hospital for his
11 admission, and transport him thereto. Arrangement for trans-
12 portation herein shall be allowed as is set forth in Section 113.
13 The application for admission shall state the circumstances
14 under which the individual was taken into custody and the rea-
15 son for such belief.

16 (c) Utilization of designated hospitals. Nothing in
17 this Act shall be deemed to limit the availability and utiliza-
18 tion of designated hospitals or designated parts thereof for other
19 appropriate purposes; provided, however, that the use of said
20 hospitals or parts thereof shall be primarily for the care and
21 treatment of the mentally ill.

22 Section 105. NEWLY-ADMITTED PATIENTS.

23 (a) The head of the hospital shall arrange for a pre-
24 liminary examination within a period not to exceed 48 hours
25 after the close of the day of admission of every patient, by a
26 designated examiner, to determine if there is a reasonable neces-
27 sity existing for the patient's continued hospitalization and
28 immediate medical attention.

29 (b) At the end of the 48-hour period, any patient so

1 admitted pursuant to Section 103(c) and 104, shall, without need
2 of application therefor, be discharged if a preliminary examina-
3 tion has not been held or if, upon examination, the designated
4 examiner refuses or fails to certify to the head of the hospital
5 that in his opinion the patient is mentally ill and either is
6 likely to injure himself or others if allowed at liberty, or is
7 in need of care or treatment in a hospital and because of his
8 illness lacks sufficient insight or capacity to make responsible
9 decision therefor. All other patients shall be discharged when,
10 in the opinion of the head of the hospital, there is no further
11 need for their hospitalization. Notice of discharge shall be
12 given to (1) the Department, and (2) the Commissioner or person
13 responsible for the order of hospitalization, who shall have an
14 additional 48 hours within which to make other arrangements under
15 Section 108 or otherwise.

16 (c) Any patient admitted under Sections 103(b) and (c),
17 or 104 may remain for treatment on a voluntary basis under the
18 same conditions prescribed for patients admitted under Section
19 103(a) of this Act, with the conditions stated in Section 106
20 applying with respect to discharge; provided, however, that in
21 the case of a patient admitted under Section 108, new commitment
22 proceedings shall not be required if, upon such patient's appli-
23 cation for discharge, the head of the hospital is of the opinion
24 that his discharge would be unsafe to the patient or others, but
25 such patient may demand a judicial determination of the need for
26 his continued hospitalization in accordance with, and subject to,
27 the time limitations of Section 107. If a patient admitted under
28 Section 103(b), (c), 104 or 108 elects to remain for treatment on
29 a voluntary basis, it is the duty of the head of the hospital in

1 such instance to ascertain that such patient has at the time
2 sufficient insight or capacity to make responsible application
3 for his own hospitalization and the head of the hospital or his
4 designee shall certify his opinion thereto. In these instances,
5 notice shall be given of the patient's decision to remain on a
6 voluntary basis to the court that issued the order.

7 Section 106. RIGHT TO DISCHARGE ON APPLICATION; EMERGENCY
8 DETENTION.

9 (a) Any individual admitted to a hospital under autho-
10 rity of Section 103 or 104 shall be forthwith discharged there-
11 from upon his request or upon the request in writing of an
12 interested party or peace officer, except that:

13 (i) if admitted upon his own application, his dis-
14 charge may be conditioned upon his agreement;

15 (ii) if under eighteen years of age and admitted
16 pursuant to Section 103(b), (c), his discharge prior to be-
17 coming eighteen years of age may be conditioned upon the
18 consent of his parent or guardian;

19 (iii) if the head of a hospital, within 48 hours
20 from the receipt of the request, files with any Commissioner
21 a certification that in his opinion the discharge of the
22 patient would be unsafe to the patient or others, the dis-
23 charge may be postponed for such period not to exceed five
24 days for the commencement of commitment proceedings pursuant
25 to Section 108; provided, that if the Commissioner finds
26 that because of justifiable circumstances or circumstances
27 beyond his control, proceedings for judicial hospitalization
28 cannot reasonably be instituted in such time, the discharge
29 may be postponed for a period not to exceed fifteen days.

1 (b) The head of the hospital shall provide reasonable
2 means and arrangements for informing patients of their right to
3 discharge, as provided in this section and other sections of this
4 Act, and for assisting them in making and presenting requests for
5 discharge under this section.

6 Section 107. PETITION FOR JUDICIAL DETERMINATION. Any
7 patient hospitalized pursuant to Sections 103, 104, or 108 shall
8 be entitled to have the need for his continued hospitalization
9 determined or redetermined on his own petition or that of an
10 interested party, or peace officer, to the Commissioner. Upon
11 receipt of the petition, the Commissioner shall conduct proceed-
12 ings in accordance with Section 108, except that such proceedings
13 shall not be required to be conducted if (a) the petition is
14 filed sooner than six months after the issuance of an order of
15 hospitalization under Section 103, (b) sooner than one year after
16 the filing of a previous petition under this section, or (c) if
17 the petition is filed sooner than six months after the voluntary
18 application and admission of a patient.

19 Section 108. HOSPITALIZATION UPON COURT ORDER; JUDICIAL
20 PROCEDURES; NOT AN ADJUDICATION OF LEGAL INCOMPETENCY.

21 (a) An interested party, a licensed physician, a peace
22 officer or the head of an institution in which the individual may
23 be hospitalized, or the Department may, by filing an application
24 with a Commissioner, commence proceedings for the hospitalization
25 of an individual by judicial commitment. Any such application
26 shall be accompanied by a certificate of a licensed physician,
27 stating that he has examined the individual within the preceding
28 fifteen (15) days and is of the opinion that the individual is
29 mentally ill and should be hospitalized, or by a written statement

1 by the applicant that the individual has refused to submit to
2 examination by a licensed physician.

3 (b) Upon receipt of an application, the Commissioner
4 shall give notice thereof to the proposed patient, to his legal
5 guardian, if any, and to one or more of the other interested par-
6 ties, if any. If the proposed patient be outside the geographic
7 limitations of Alaska, notice shall be transmitted by registered
8 mail, return receipt requested. If, however, the Commissioner
9 has reason to believe that notice would be likely to be injurious
10 to the proposed patient, notice to him may be omitted.

11 (c) As soon as practicable after notice of the commence-
12 ment of proceedings is given, or it is determined that notice
13 to the proposed patient should be omitted, the Commissioner shall
14 appoint one or more designated examiners to examine the proposed
15 patient and report to the Commissioner his or their findings as
16 to the mental condition of the patient and his need for care in
17 a hospital. The court may consider the choice of the patient in
18 appointing an examiner. If the designated examiner reports that
19 the proposed patient refuses to submit to an examination, the
20 Commissioner shall give notice to the proposed patient and order
21 him to submit to such examination.

22 (d) The examination shall be held at a hospital or
23 other medical facility, at the home of the proposed patient, or
24 other suitable place, whether within or without Alaska, not likely
25 to have a harmful effect on his health.

26 (e) If the report of the designated examiner or exa-
27 miners states that the proposed patient is not mentally ill, the
28 Commissioner shall, without taking any further action, terminate
29 the proceedings and dismiss the application. Otherwise, he shall

1 terminate the proceedings and dismiss the application. Otherwise,
2 he shall forthwith fix a date for, and give notice of, a hearing
3 to be held not more than fifteen days from receipt of the report
4 of the designated examiner.

5 (f) The proposed patient, the applicant, the legal
6 guardian and other interested parties, as determined by the
7 Commissioner, shall be given notice and afforded an opportunity
8 to appear at the hearing, to testify, and to present and cross-
9 examine witnesses, and the Commissioner may, in his discretion,
10 receive the testimony of any other person. The proposed
11 patient shall not be required to be present, and the Commissioner
12 is authorized to exclude all persons not necessary for the conduct
13 of the proceedings. The hearings shall be conducted as informally
14 as may be consistent with orderly procedure and in a physical
15 setting not likely to have a harmful effect on the mental health
16 of the proposed patient. The entire proceeding may be recorded
17 stenographically or with the use of mechanical recording devices
18 as the Commissioner may approve. The Commissioner shall, in any
19 event, prepare and maintain a summary record of all relevant and
20 material evidence which may be offered concerning the mental
21 condition and the residence of the proposed patient and may
22 relax the rules of evidence to the extent of receiving affidavits,
23 certificates of licensed physicians and other writings of similar
24 apparent authenticity and reliability. An opportunity to be re-
25 presented by counsel or advisor shall be afforded to every proposed
26 patient, and if neither he nor others provide counsel or advisor
27 the Commissioner shall appoint such. If, not less than two days
28 prior to the date fixed for the hearing, the proposed patient
29 or his counsel or advisor, files a written request with

1 the Commissioner therefor, the Commissioner shall summon and
2 impanel a jury of six adult residents of the Precinct in which
3 the Commissioner officiates, preferably from the United States
4 District Court's jury list or the last voters' list, if
5 available, to hear and consider the evidence concerning the
6 mental condition and residence of the proposed patient.

7 (g) If, upon completion of the hearing and considera-
8 tion of the record, the Commissioner, or in the event the right
9 to a jury has been exercised pursuant to subsection (f) hereof,
10 the jury finds the proposed patient is

11 (i) mentally ill;

12 (ii) (A) because of his illness is likely to
13 injure himself or others if allowed to remain at liberty;
14 or (B) is in need of immediate care or treatment in a
15 hospital; and

16 (iii) because of his illness, lacks sufficient
17 insight or capacity to make responsible decisions concerning
18 hospitalization,

19 the Commissioner shall order his hospitalization for an indeter-
20 minate period; otherwise, he shall terminate the proceedings and
21 dismiss the application. If the Commissioner orders the
22 hospitalization of the proposed patient, a finding shall be made
23 as to the residence of the patient. A copy of such finding and
24 the summary of proceedings shall accompany the patient to the
25 hospital.

26 (h) The order of hospitalization shall be directed
27 to the Department and it shall be the responsibility of the
28 Department to assure the carrying out of such order.

29 (i) Notwithstanding any other provision of this Act

1 (1) An order for hospitalization pursuant to this
2 section shall not be deemed to constitute a judicial determina-
3 tion of legal incompetency. Proceedings for a determination of
4 legal incompetency of, and the appointment of a guardian for, any
5 patient who has been ordered hospitalized may be instituted prior,
6 concurrently with, or following the completion of proceedings
7 under this section, where the circumstances of the case so re-
8 quire and the condition of the patient permits.

9 Section 109. COMMITMENT OR TRANSFER TO AN AGENCY OF THE
10 UNITED STATES; CONTINUING JURISDICTION OF COMMISSIONER.

11 (a) If, at any time before or during the commitment
12 proceeding conducted pursuant to Section 108, the Commissioner
13 receives a certificate from an agency of the United States
14 showing that accommodations are available and that the individual
15 is eligible for care, he may, upon receipt of the designated
16 examiner's report, order the individual to be placed in the cus-
17 tody of such agency for hospitalization. When any such individual
18 is admitted, pursuant to the order of a Commissioner, to any hos-
19 pital or institution operated by any agency of the United States
20 within or without Alaska, he shall be subject to the rules and
21 regulations of such agency. The head of any hospital or insti-
22 tution operated by such agency and in which the individual is
23 so hospitalized shall, with respect to such individual, be vested
24 with the same powers as the Department or the head of a hospital,
25 concerning the detention, transfer, custody, conditional release,
26 or discharge of patients; provided, however, jurisdiction shall
27 be retained in the Commissioner to inquire at any time into the
28 mental condition of an individual so hospitalized, and to deter-
29 mine the necessity for continuance of his hospitalization, and

1 every order of hospitalization issued pursuant to this section is
2 as conditioned.

3 (b) An order of a court of competent jurisdiction of
4 any state, authorizing hospitalization of any individual to any
5 agency of the United States, shall have the same force and effect
6 as to the individual while in Alaska as in the jurisdiction in
7 which the court entering the order is situated; and the courts
8 of the jurisdiction issuing the order shall be deemed to have
9 retained jurisdiction of the individual so hospitalized for the
10 purpose of inquiring into his mental condition and of determining
11 the necessity for continuance of his hospitalization, as is pro-
12 vided in subsection (a) of this section with respect to individuals
13 ordered hospitalized by the Commissioner. Consent is hereby
14 given to the application of the law of the state in which is
15 located the court issuing the order for hospitalization, with
16 respect to the authority of the head of any hospital or institu-
17 tion operated in Alaska by any agency of the United States to
18 retain custody, transfer, conditionally release or discharge
19 the individual hospitalized. Nothing in this section shall pre-
20 vent the Territory from entering into a contract with any Federal
21 agency for the care and treatment of persons coming under the
22 jurisdiction or assistance of the Federal agency.

23 Section 110. DETENTION UNDER SPECIAL CIRCUMSTANCES.

24 (a) Pending his removal to a hospital, a patient
25 taken into custody under Section 104 or ordered to be hospita-
26 lized pursuant to Section 108, may be detained in his home, a
27 licensed foster home, or any other suitable facility under such
28 reasonable conditions as the Department may fix, but he shall
29 not, except because of and during an extreme emergency, be

1 detained in a non-medical facility used for the detention of
2 individuals charged with or convicted of penal offenses. The
3 Department shall take such reasonable measures, including provi-
4 sion for medical care, as may be necessary to assure proper care
5 of an individual temporarily detained pursuant to this section,

6 (b) Notwithstanding any other provision of this Act,
7 no patient shall be released or discharged from custody during
8 the pendency of proceedings for judicial hospitalization if, in
9 the opinion of the head of the hospital, it would be unsafe to
10 the patient or others, unless the Commissioner, upon the applica-
11 tion of the patient or of an interested party, determines justi-
12 fiable reason exists for release or discharge.

13 (c) No patient held on order of a court or judge having
14 criminal jurisdiction in any action or proceeding arising out of
15 a criminal offense shall be discharged except upon order of a
16 court of competent jurisdiction.

17 Section 111. WRIT OF HABEAS CORPUS. Any individual detained
18 pursuant to this Act shall be entitled to a writ of habeas cor-
19 pus upon proper petition by himself or interested party to any
20 court generally empowered to issue the writ of habeas corpus in
21 the jurisdiction in which he is detained.

22 Section 112. APPEAL FROM DECISION OR ORDER OF UNITED STATES
23 COMMISSIONER. Any person adjudged to be mentally ill may appeal
24 to the District Court for the District of Alaska or, in the event
25 of statehood, to the appropriate court, from any decision or order
26 of a Commissioner pursuant to this Act, within ten days of the
27 date of the decision or order, and said court shall hear the case
28 de novo. The patient or his counsel may demand a jury trial in
29 accordance with the rules of the District Court. While such

1 appeal is pending, the decision or order of the Commissioner
2 shall, unless otherwise directed by the court, be given full
3 force and effect as if no appeal had been taken. Any appeal from
4 a final or interlocutory decision of the District Court in a pro-
5 ceeding under this Act shall be governed by the law applicable
6 generally to appeals from the District Court for the District of
7 Alaska.

8 Section 113. TRANSPORTATION. Whenever an individual is
9 about to be hospitalized under the provisions of this Act, the
10 Department shall arrange, upon the request of a person having a
11 proper interest in the individual's hospitalization, for the
12 individual's transportation to the hospital, with appropriate
13 medical or nursing attendants and by such available means as may
14 be appropriate and suitable. Whenever practicable, the individual
15 to be hospitalized shall be permitted to be accompanied by one
16 or more of his relatives or friends, who shall travel at their own
17 expense. When necessary, the Department shall arrange for a
18 peace officer or other suitable person to accompany the individual.

19 Section 114. NOTICE OF HOSPITALIZATION. Whenever a patient
20 has been admitted to a hospital pursuant to this Act other than
21 upon his own application, the head of the hospital shall notify
22 immediately the patient's legal guardian, parent or parents,
23 spouse, or next-of-kin, if known. The head of the hospital
24 admitting an individual under any provision of this Act, or dis-
25 charging an individual so admitted, shall forthwith make a report
26 thereof to the appropriate Commissioner, if any, and to the
27 Department.

28 Section 115. RIGHT TO HUMANE CARE AND TREATMENT; CONSENT
29 TO SURGERY, DRASTIC PSYCHIATRIC THERAPIES AND AUTOPSIES.

1 (a) Every patient shall be entitled to humane care and
2 treatment, and to the extent that facilities, equipment and per-
3 sonnel are available, to medical care and treatment in accordance
4 with the highest standards accepted in medical practice.

5 (b) Consent to surgery, drastic psychiatric therapies
6 and autopsies must be obtained for any patient prior to the under-
7 taking of any such surgery, drastic psychiatric therapies or
8 autopsies from any one of the following persons: spouse, guardian,
9 either parent or oldest adult child; provided, however, that if no
10 such relative or guardian be found in Alaska within a reasonable
11 time, or in the case of an emergency, the Commissioner of Health
12 or his designee, upon being notified of all the pertinent facts
13 pertaining to such medical action, may give such consent in lieu
14 of any guardian or relative. Any person giving such consent or
15 who acts after such consent has been given and is duly authorized
16 to perform the act undertaken by them shall not be liable civilly
17 or criminally if said act or acts was or were done by them in
18 their official capacity or in the capacity set forth above.

19 Section 116. MECHANICAL RESTRAINTS. Mechanical restraints
20 shall not be applied to a patient unless determined by the head
21 of the hospital or his designee to be required by the medical
22 needs of the patient. Every use of a mechanical restraint and
23 reasons therefor shall be made a part of the clinical record of
24 the patient over the signature of the head of the hospital or his
25 designee.

26 Section 117. RIGHT TO COMMUNICATE AND VISITATION; EXERCISE
27 OF CIVIL RIGHTS.

28 (a) Subject to the general rules and regulations of
29 the hospital and except to the extent that the head of the

1 hospital determines that it is necessary for the medical welfare
2 of the patient to impose restrictions, every patient shall be
3 entitled to

4 (i) communicate by sealed mail or otherwise with
5 persons, including official agencies, inside or outside the
6 hospital;

7 (ii) receive visitors; and

8 (iii) exercise all civil rights, including, but
9 not limited to, the right to dispose of property, execute
10 instruments, make purchases, enter contractual relation-
11 ships, and vote, unless he has been adjudicated incompetent
12 and has not been restored to legal capacity.

13 (b) Notwithstanding any limitations authorized by this
14 section on the right of communication, every patient shall be
15 entitled to communicate by sealed mail with the Department,
16 Governor, and with the Commissioner, if any, who ordered his
17 hospitalization.

18 (c) Any limitations imposed by the head of a hospital
19 on the exercise of these rights by a patient and the reasons for
20 such limitations shall be made a part of the clinical record of
21 the patient.

22 Section 118. TRANSFER OF PATIENTS GENERALLY.

23 (a) The Department may authorize the transfer of a
24 patient from one hospital to another hospital within or without
25 Alaska, if it determines that it would be consistent with the
26 medical needs of the patient to do so. Whenever a patient is
27 transferred outside of Alaska, written notice thereof shall be
28 given to the appropriate Commissioner, if any, his legal guardian,
29 if any, parent or parents, and spouse, or, if none be known, to

1 any other interested party. In all such transfers, due considera-
2 tion shall be given to the relationship of the patient to his
3 family, legal guardian, or friends, so as to maintain relationships
4 and encourage visits beneficial to the patient.

5 (b) Upon receipt by the Department of a certificate
6 from an agency of the United States that accommodations are
7 available for the care of any individual theretofore hospitalized
8 in any hospital for care or treatment of the mentally ill, and
9 that such individual is eligible for care or treatment in a hos-
10 pital or institution of such agency, the Department may authorize
11 his transfer to such agency of the United States for hospitaliza-
12 tion. Any person transferred as provided in this section to any
13 agency of the United States, shall be deemed to be hospitalized
14 by that agency pursuant to the original order of hospitalization.

15 Section 119. TRANSFER OF NONRESIDENT PATIENTS.

16 (a) The admission papers of any person hospitalized
17 pursuant to this Act shall include a statement as to his resi-
18 dence. The Department is authorized to transfer any patient who
19 is not a resident of Alaska to the state in which he has resi-
20 dence. If the state in which he has residence does not consent
21 to the transfer, the Department may order the discharge of the
22 patient; provided, that nothing herein shall prevent the Depart-
23 ment from initiating proceedings for judicial hospitalization
24 with respect to such patient, pursuant to Section 108 of this Act,
25 if the patient is certified by the head of a hospital to be men-
26 tally ill and (i) dangerous to himself or to others if allowed
27 at liberty, or (ii) in need of immediate custody and care of
28 treatment and lacks sufficient insight and capacity to make
29 responsible decisions concerning hospitalization.

1 (b) For the purpose of facilitating the return of such
2 nonresident patients, the Department may enter into a reciprocal
3 agreement or compact with any state, providing for the prompt
4 transfer, under appropriate supervision, of residents of such
5 state who are mentally ill. Mentally ill residents of Alaska who
6 have been hospitalized outside Alaska may be transferred, with
7 the approval of the Department, to a hospital designated by the
8 Department.

9 (c) The Department is hereby authorized to enter into
10 reciprocal agreements or contracts with any state, providing for
11 the care and treatment of mentally ill residents of Alaska by
12 such state, and for the care and treatment of mentally ill resi-
13 dents of such state by Alaska, each on a reimbursable basis.

14 (d) In taking action under subsections (a) and (b) of
15 this section, due consideration shall be given to the relation-
16 ship of the patient to his family, legal guardian, or friends,
17 so as to maintain relationships and encourage visits beneficial
18 to the patient.

19 Section 120. CONTRACT CARE OUTSIDE ALASKA; RIGHTS UNDER
20 STATE LAW. Nothing in this Act shall be deemed to alter or im-
21 pair the application or availability to any patient, while
22 hospitalized in a state outside Alaska, pursuant to contractual
23 arrangements under this Act, of any rights, remedies, or protec-
24 tive safeguards provided by the laws of Alaska or of such state.

25 Section 121. RELEASE ON CONVALESCENT STATUS. The head of
26 a hospital may release any patient on convalescent status when
27 he believes that such status is in the best interests of the
28 patient. Convalescent status shall, so far as practicable,
29 include provisions for continuing responsibility to and by the

1 hospital, and for a plan of treatment on an outpatient basis or
2 under the direction of a licensed physician. Periodically, at
3 intervals consistent with good medical practice and with then-
4 existing circumstances, the head of the hospital shall re-examine
5 the facts relating to the condition of the patient on a convales-
6 cent status and, if he determines that hospitalization is no
7 longer necessary, he shall discharge the patient.

8 Section 122. DISCHARGE UPON MEDICAL REVIEW. The head of
9 a hospital shall cause the condition of every patient to be
10 reviewed as frequently as is consistent with good medical prac-
11 tice, and whenever the head of a hospital determines that the
12 conditions justifying hospitalization no longer obtain, the
13 patient shall be discharged and the Department so notified. If
14 the patient was admitted on other than his own application,
15 notice of such discharge shall also be given to any one of the
16 following persons: the patient's legal guardian, parent or
17 parents, spouse, or next-of-kin, if known, and, if the patient
18 was hospitalized by judicial process, to the Commissioner who
19 ordered him to be committed.

20 Section 123. READMISSION. At any time prior to such dis-
21 charge the head of the hospital from which the patient is given
22 convalescent status may readmit the patient. If there is reason
23 to believe that it is to the best interest of the patient to be
24 rehospitalized, the Department or the head of the hospital may
25 issue an order for the immediate rehospitalization of the patient.
26 Such an order, if not voluntarily complied with, shall, upon the
27 endorsement by any Commissioner, authorize any peace officer to
28 take the patient into custody and transport him to the hospital,
29 or if the order is issued by the Department to a hospital desig-

1 wated by it.

2 Section 124. PROVISION FOR PERSONAL NEEDS OF A PATIENT ON
3 DISCHARGE. The Department shall make such arrangements as may
4 be necessary to insure:

5 (a) That no patient is discharged from a hospital
6 without suitable clothing; and

7 (b) That any indigent patient discharged is furnished
8 suitable transportation to his permanent residence in Alaska or
9 place of commitment, within the discretion of the Department, and
10 a reasonable amount of money to meet his immediate needs.

11 Section 125. DISPOSITION OF PERSONAL EFFECTS AND UNCLAIMED
12 FUNDS OF PATIENTS. All articles of personal property belonging
13 to a patient who has died prior to his release on convalescent
14 status or discharge, or who has eloped or departed therefrom
15 without authority, and remaining in the custody of the head of
16 the hospital, shall, if unclaimed by such patient, or his legal
17 heirs or representatives, within the period of one year after the
18 decease of such patient or the date of his leaving the hospital,
19 be disposed of in such manner as the Department may prescribe,
20 and any proceeds resulting therefrom shall be covered into the
21 general fund without the necessity of legal action. Any monies
22 remaining to the credit of such patient, if unclaimed by his legal
23 heirs or representatives or by such patient within the period of
24 one year after the decease of such patient or the date of his
25 leaving the hospital, shall be covered into the general fund
26 without the necessity of legal action.

27 Section 126. DISPOSITION OF FUNDS SUBJECT TO CLAIM AFTER
28 DEATH OR ELOPEMENT. The Department shall cause diligent inquiry
29 to be made in every instance after elopement or death of any

1 patient, to ascertain his whereabouts or that of his legal heirs
 2 or representatives, and shall turn over to the proper party or
 3 parties any monies or articles of personal property in the cus-
 4 tody of the head of the hospital to the credit of such person,
 5 Claims to such monies or articles of personal property, including
 6 any claims by Alaska, may be presented to the Department at any
 7 time. Claims by Alaska shall have priority, as set forth in
 8 Section 128. In the event a claim other than by Alaska is estab-
 9 lished by clear and convincing evidence more than one year after
 10 the death or elopement of a patient, it shall be certified to the
 11 Alaska Legislature for consideration, which may, in its discre-
 12 tion pay the same.

13 Section 127. DISCLOSURE OF INFORMATION.

14 (a) All certificates, applications, records and re-
 15 ports, other than an order of a court or Commissioner made for
 16 the purposes of this Act, and directly or indirectly identifying
 17 a patient or former patient or an individual whose hospitalization
 18 has been sought under this Act, together with clinical informa-
 19 tion relating to such patients, shall be kept confidential and
 20 shall not be disclosed by any person except insofar as

21 (i) the individual identified, or his legal guar-
 22 dian, if any (or if he be a minor, his parent or legal
 23 guardian), shall consent; or

24 (ii) disclosure may be necessary to carry out any
 25 of the provisions of this Act; or

26 (iii) a court may direct, upon its determination
 27 that disclosure is necessary for the conduct of proceedings
 28 before it and that failure to make such disclosure would be
 29 contrary to the public interest.

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1 (b) Nothing in this section shall preclude disclosure,
2 upon proper inquiry, of information concerning current medical
3 condition to the members of the family of a patient or to his
4 relatives or friends.

5 (c) Any person violating any provision of this section
6 shall be guilty of a misdemeanor and subject to a fine of not
7 more than \$500.00 or imprisonment for not more than one year, or
8 both.

9 Section 128. LIABILITY FOR EXPENSE OF HOSPITALIZATION AND
10 TRANSPORTATION; LIEN; CLAIM AGAINST ESTATE.

11 (a) It shall be the duty of a patient, or his legal
12 representative acting in a representative capacity, spouse,
13 parents, adult children, in that sequence, to pay or contribute
14 to the payment of the charges for the care or treatment of such
15 patient when hospitalized pursuant to the provisions of this Act,
16 in such manner and proportion as the Department may find to be
17 within their ability to pay; provided, that such charges shall in
18 no case exceed the actual cost of such care and treatment as may
19 be determined by the Department. The order of the Department
20 relating to the payment of charges by persons other than the
21 patient, or his legal representative, shall be prospective in
22 effect and shall relate only to charges to be incurred subsequent
23 to the order; provided, however, that if any of the above-named
24 persons intentionally conceal their ability to pay, such persons
25 shall be ordered to pay to the extent of their ability the charges
26 accruing during the period of such concealment. The Department
27 may cause to be made such investigations as may be necessary to
28 determine such ability to pay, may require sworn statements of
29 income by such persons and may examine such persons! Alaska

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1 income tax returns.

2 (c) The amount of liability for such care and treat-
3 ment determined by the Department pursuant to subsection (a) of
4 this section not paid for by the patient or by someone in his
5 behalf, shall constitute a lien in favor of Alaska against all
6 property of the patient. Said unpaid amount of liability shall
7 also be an indebtedness owing Alaska by the patient or those liable
8 for his care and shall be a first, prior and preferred claim
9 against the estate of such beneficiary or person liable for his
10 care, after death, and after expenses of administration and all
11 just claims for medical care and burial expenses have been paid.
12 Said claim based upon information submitted by the Department,
13 shall be prepared and filed by the Attorney General's office.

14 (d) The Department is authorized to accept from any
15 person any monies or property for the care and treatment of any
16 patient or for other purposes, even if such payment is not required
17 by an order of the Department under subsection (a), so long as the
18 total payments received under subsection (a) and this subsection
19 do not exceed the actual cost of care and treatment.

20 (e) All monies paid by the patient or on his behalf,
21 pursuant to this section, shall be covered into the Treasury of
22 Alaska to the credit of the Department, for expenditure by the
23 Department for the administration of this Act.

24 Section 129. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS.
25 A Commissioner, the witnesses, and the jurymen, if any, in pro-
26 ceedings for judicial hospitalization shall be entitled to such
27 fees, compensation and mileage as shall be established by law.
28 All compensation, mileage, fees, and all other expenses arising
29 from judicial hospitalization proceedings shall be audited and

1 allowed by the district judge of the division in which said
2 proceedings are held, and when so audited and allowed shall be
3 paid by the clerk of the court in said division in the same
4 manner and from the same fund as he pays the other incidental
5 expenses of the court. To the extent that services of a United
6 States Marshal or Deputy Marshal are utilized to carry out the
7 provisions of this Act, such marshal or deputy marshal shall be
8 entitled to fees and actual expenses from the same source and in
9 the same manner as for their other official duties.

10 Section 130. DEPARTMENT MAY PROMULGATE AND ISSUE REGULA-
11 TIONS. The Department is hereby granted authority to promulgate
12 and issue appropriate regulations to implement the provisions of
13 this Act and to cover matters not expressly touched upon or anti-
14 cipated but necessarily implied by the provisions hereof. All
15 such regulations shall be filed with the Secretary of Alaska,
16 and when so filed shall have the force and effect of law.

17 Section 131. STATUTORY CONSTRUCTION OF THIS ACT. For pur-
18 poses of clarity and to insure uniform interpretation, House
19 Report Number 1399 of the United States House of Representatives,
20 84th Congress, 1st Session, and Senate Report Number 2053 of the
21 same Congress, both relating to H.R. 6376, insofar as they are
22 pertinent, and any committee or other report of the Alaska Legis-
23 lature may be employed in construing and interpreting this Act.

24 Section 132. COMMITMENTS PREVIOUSLY ORDERED UNDER TITLE
25 48 U.S.C.A. 46, ET SEQ., AND P. L. 830, 84TH CONGRESS, 2ND
26 SESSION. All commitments previously ordered under Title 48 U.S.C.
27 46, et seq., and P. L. 830, 84th Congress, 2nd Session, or under
28 any laws of the Territory, shall remain fully effective unless
29 the status of any of the same are altered or otherwise changed

1 pursuant to the provisions of this Act.

2 Section 133. TRANSFER OF PATIENTS COMMITTED PURSUANT TO
3 TITLE 48 U.S.C.A. 46, et seq., AND P. L. 830, 84TH CONGRESS,
4 2ND SESSION. Any mental patient committed from Alaska pursuant
5 to Title 48 U.S.C.A. 46, et seq., and P. L. 830, 84th Congress,
6 2nd Session, may be transferred anytime after February 23, 1957,
7 to any hospital or other facility as shall be determined by the
8 Department and to the same extent and in the same manner as a
9 patient can be transferred who is committed pursuant to this Act.

10 Section 134. CRIMINAL PENALTIES. Whoever intentionally
11 causes, or attempts to cause, or conspires with any other person
12 to cause any individual to be committed to any hospital under
13 this Act, knowing or having reasonable grounds for believing
14 that such individual is not mentally ill, and in need of hos-
15 pitalization, shall be fined a sum not exceeding \$10,000.00 or
16 imprisoned not more than ten years, or both such fine and im-
17 prisonment. The court in its discretion may order all or any
18 part of an imposed fine to be paid over to the injured indivi-
19 dual.

20 Section 135. FEDERAL STATUTES SUPERSEDED BY PROCLAMATION
21 OF THE GOVERNOR. Pursuant to Title III, Section 301, of Public
22 Law 830, 84th Congress, 2nd Session, the Governor of Alaska may,
23 by proclamation, declare to be superseded by this Act, all of
24 the laws cited in said Section 301 of Public Law 830, 84th
25 Congress, 2nd Session, and that the same shall be repealed as of
26 the effective date specified in said proclamation.

27 Section 136. REPEALING CHAPTER 175, SLA 1955, and Chapter
28 62, SLA 1951. Chapter 175, SLA 1955, and Chapter 62, SLA 1951
29 are hereby repealed.

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1 Section 137. DECLARATION OF AN EMERGENCY AND SETTING AN
2 EFFECTIVE DATE. An emergency is hereby declared and this Act
3 shall take effect as of the effective date specified in the
4 Governor's proclamation.

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