

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SER-  
VICES COMMITTEE BY REQUEST OF THE LEGIS-  
LATIVE COUNCIL MENTAL RETARDATION AND  
MENTAL HEALTH CODE REVISION TASK FORCE

2 HOUSE BILL NO. 733

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to services and commitment procedures  
7 for mentally ill persons; and providing for an effective  
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 47.30.010 - 47.30.340 are repealed.

11 \* Sec. 2. AS 47.30 is amended by adding new sections to read:

12 ARTICLE 1. MENTAL HEALTH PROGRAM.

13 Sec. 47.30.011. POWERS AND DUTIES OF DEPARTMENT. (a) The depart-  
14 ment is the mental health authority of the state and shall

15 (1) develop and submit to the surgeon general of the United  
16 States Public Health Service and administer a complete comprehensive  
17 program for the prevention of mental illness and the care and treatment  
18 of the mentally ill, including inpatient and outpatient care and treat-  
19 ment;

20 (2) take the actions and undertake the obligations which are  
21 necessary to participate in federal grants-in-aid program and accept  
22 federal or other financial aid from whatever sources for the study,  
23 examination, care, and treatment of the mentally ill;

24 (3) administer secs. 11 - 321 of this chapter;

25 (4) designate, operate, and maintain treatment facilities  
26 equipped and qualified to provide inpatient and outpatient care and  
27 treatment for the mentally ill;

28 (5) take the actions necessary to carry out a program for the  
29 prevention of mental illness or for the furnishing of inpatient and

1 outpatient care or treatment for the mentally ill, including the procure-  
2 ment of services of specialists or other persons on a contractual or  
3 other basis;

4 (6) provide for the placement of mentally ill patients in  
5 designated treatment facilities;

6 (7) enter into arrangements with the surgeon general of the  
7 public health service for the care or treatment of the mentally ill in  
8 facilities of the public health service in the state or in another state;

9 (8) enter into contracts with treatment facilities for the  
10 custody and care or treatment of the mentally ill;

11 (9) enter into contracts which incorporate safeguards consis-  
12 tent with secs. 11 - 321 of this chapter and the preservation of the  
13 civil rights of the patients with another state for the custody and care  
14 or treatment of patients previously committed from this state under  
15 48 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session,  
16 70 Stat. 709;

17 (10) prescribe the form of applications, records, reports, and  
18 medical certificates required by secs. 11 - 321 of this chapter;

19 (11) require reports from the head of a treatment facility  
20 concerning the care of patients;

21 (12) visit each treatment facility to review methods of care  
22 or treatment for patients;

23 (13) investigate complaints made by a patient or an interested  
24 party on behalf of a patient;

25 (14) delegate upon mutual agreement to another officer or  
26 agency of it, or a political subdivision of this state, or a treatment  
27 facility designated, any of the duties and powers imposed upon it by  
28 secs. 11 - 321 of this chapter;

29 (15) provide for and pay the costs of transportation of patients

1 and of the attendants who are needed if transportation is necessary to  
2 secure appropriate examinations or placement of the mentally ill, or for  
3 returning a patient discharged from a treatment facility to his home or  
4 place of convalescence; and

5 (16) adopt and promulgate regulations to implement the provi-  
6 sions of secs. 11 - 321 of this chapter.

7 Sec. 47.30.016. OFFICE OF MENTAL HEALTH ADVOCATE. (a) There is  
8 created within the Office of the Governor the office of mental health  
9 advocate to assure the proper functioning of laws affecting the mentally  
10 handicapped and developmentally disabled and to protect individual  
11 rights and freedoms by guaranteeing that all persons shall have access  
12 to counsel with adequate knowledge and appropriate resources to advise  
13 and represent them fully in mental health law matters and legal matters  
14 related to their handicaps.

15 (b) The office of mental health advocate shall represent or pro-  
16 vide information or advice to persons concerning, but not limited to,  
17 the following areas:

18 (1) respondents in any phase of involuntary treatment or  
19 commitment proceedings;

20 (2) persons voluntarily in residence or about to begin resi-  
21 dence in a treatment facility, with respect to matters of coercion,  
22 duress or undue influence involved in the application for or consent to  
23 admission;

24 (3) persons who assert the denial of any of the patient  
25 rights set out in this chapter or the violation of a provision of this  
26 chapter.

27 (c) The office of mental health advocate shall also assist persons  
28 residing in treatment facilities to obtain appropriate legal assistance  
29 in civil matters, including criminal commitment, mental retardation, or

1 guardianship procedures.

2 (d) There shall be at least one full-time attorney assigned the  
3 position of mental health advocate who shall administer the program  
4 statewide. As needed to fulfill the requirements of this chapter and  
5 the functions of (b) and (c) of this section, other attorneys shall be  
6 retained, as necessary, practicable and most economical. The mental  
7 health advocate and his designees may hire support staff, clerical or  
8 professional, necessary to carry out the functions of the office.

9 (e) The services of the office shall be free to indigent clients.  
10 The department shall promulgate regulations for determination of indi-  
11 gency and reimbursement of costs on a sliding scale basis by those  
12 clients who can afford to pay.

13 (f) The mental health advocate shall create a system of statewide  
14 delivery of services by the office of mental health advocate to meet the  
15 requirements of this chapter. This organizational plan shall be put  
16 into effect by the effective date of this Act, and the plan shall be  
17 disseminated to district offices, evaluation and treatment facilities,  
18 providers of outpatient care, and the public at large at the time of its  
19 adoption.

20 ARTICLE 1A. VOLUNTARY ADMISSION FOR TREATMENT.

21 Sec. 47.30.021. STANDARDS FOR VOLUNTARY ADMISSION. A person may  
22 be voluntarily admitted to a treatment facility if he is suffering from  
23 mental illness and as a result is either in need of care and treatment  
24 or is likely to cause harm to himself or others; and, with recognition  
25 that he is ill and in need of inpatient treatment, voluntarily signs the  
26 admission papers.

27 Sec. 47.30.026. NOTICE OF RIGHTS. Upon application for voluntary  
28 admission a person shall be given a copy of the following documents  
29 which shall be explained to him as necessary:

1 (1) a brochure which sets out in language easily understand-  
2 able by laymen a description of the facility and the services it pro-  
3 vides;

4 (2) notice of rights as set out in secs. 221 - 256 of this  
5 chapter and an explanation of any document served upon him; and

6 (3) notice that should he desire to leave at a time when the  
7 treatment facility determines that he is mentally ill and as a result is  
8 likely to cause serious harm to himself or others, the facility could  
9 initiate commitment proceedings against him.

10 Sec. 47.30.036. DISCHARGE OF VOLUNTARY PATIENTS. The professional  
11 person in charge of the treatment facility or his designee shall dis-  
12 charge any patient who is not mentally ill or who is no longer benefit-  
13 ing from inpatient care and treatment and cannot be realistically expect-  
14 ed to so benefit in the near future.

15 Sec. 47.30.041. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT.  
16 A voluntary patient who desires to leave a treatment facility before  
17 receiving authorization by the facility must submit a written notice of  
18 intent to leave on a form provided to him by the facility to a member of  
19 his treatment team. Upon immediate investigation, the professional per-  
20 son in charge of the treatment facility or his designee must either  
21 discharge the patient immediately or inform him that involuntary com-  
22 mitment proceedings will be initiated against him. If the respondent  
23 has been a patient at the facility for less than 14 days, the proceed-  
24 ings shall be initiated with a probable cause hearing scheduled for no  
25 later than 72 hours, exclusive of Saturdays, Sundays and holidays, from  
26 the time the respondent's notice of intent to leave was submitted. The  
27 standards and procedures for the probable cause hearing and any subse-  
28 quent 90-day commitment shall be the same as set out in secs. 56 - 216  
29 of this chapter. If the respondent has been a voluntary patient for 14

1 days or more before submitting the notice of intent to leave, the pro-  
2 fessional person in charge of the facility or his designee may, in his  
3 discretion, determine to initiate the commitment proceedings with a  
4 petition for 90-day commitment. In this case the provisions of secs.  
5 56 - 216 of this chapter apply. The professional person's discretion  
6 shall be guided by (1) the ability to meet the 90-day commitment stan-  
7 dards set out in sec. 56 of this chapter; (2) the opportunity to observe  
8 and treat the respondent during the voluntary treatment period; and (3)  
9 the professional opinion that a 14-day treatment period would not be  
10 sufficient time to treat the respondent adequately so that he would no  
11 longer meet the commitment requirements of sec. 56 of this chapter. At  
12 the time of the hearing, the court may hear argument on and determine  
13 whether a case should properly be treated as a 14-day or 90-day commit-  
14 ment proceeding.

15 Sec. 47.30.046. VOLUNTARY ADMISSION OF MINORS WITH MINOR AND  
16 PARENT OR GUARDIAN CONSENT. A minor who knowingly seeks admission to a  
17 treatment facility, recognizing his illness and need for treatment, may  
18 be admitted voluntarily if

19 (1) he signs the voluntary admission papers, assuming he is  
20 of age and ability to write;

21 (2) his parent or guardian signs the voluntary admission  
22 papers; and

23 (3) the facility agrees that he meets the standards for  
24 voluntary admission set out in sec. 21 of this chapter and that there is  
25 no preferable, less restrictive alternative available to him.

26 Sec. 47.30.051. VOLUNTARY ADMISSION OF MINORS WITHOUT PARENTS'  
27 CONSENT. A minor who knowingly seeks admission to a treatment facility,  
28 recognizing his illness and need for treatment, but whose parent or  
29 guardian has not signed the voluntary admission papers, despite the

1 facility's recommendation for inpatient treatment, may be admitted  
2 voluntarily after compliance with the following procedures:

3 (1) The minor may present himself to an evaluation facility  
4 or to evaluation personnel for evaluation as to whether he meets the  
5 standards for voluntary admission. If, after a preliminary investiga-  
6 tion by a mental health professional at the facility or by the evalua-  
7 tion personnel, it is determined that there is reason to believe that  
8 the minor does meet the voluntary admission standards, the minor may be  
9 admitted, upon signing voluntary admission papers, for no more than 72  
10 hours, for more complete evaluation.

11 (2) In the course of the 72-hour evaluation period, a peti-  
12 tion for court-ordered voluntary admission to a treatment facility may  
13 be filed in court. The petition must be signed by two mental health  
14 professionals who have examined the minor. The petition must

15 (A) allege that the minor, by reason of mental illness,  
16 is likely to cause serious harm to himself or others or is in need  
17 of inpatient care and treatment;

18 (B) allege the facts and specific behavior of the minor  
19 which support the findings of mental illness and that he is likely  
20 to cause serious harm or is in need of care and treatment;

21 (C) allege that the evaluation staff has considered but  
22 has found that there are no less restrictive alternatives available  
23 that would adequately protect the minor or others or would provide  
24 the necessary care and treatment, or, if a less restrictive form of  
25 treatment is sought, specify the treatment and the basis for sup-  
26 porting it;

27 (D) allege that there is reason to believe the minor's  
28 mental condition could be improved by the course of treatment  
29 sought;

1 (E) allege that a specified treatment facility appropri-  
2 ate to the minor's condition has agreed to accept the minor;

3 (F) allege that the minor has requested voluntary treat-  
4 ment at an inpatient treatment facility but that no parent or  
5 guardian has signed an admission paper for the minor;

6 (G) request the court to order the minor to be treated  
7 voluntarily at an inpatient facility or less restrictive alterna-  
8 tive;

9 (H) list the prospective witnesses who will testify in  
10 support of inpatient treatment.

11 (3) The minor has the following rights and shall be provided  
12 with a notice of the rights set out in this paragraph before signing the  
13 voluntary admission papers at the evaluation facility or place of evalu-  
14 ation by evaluation personnel:

15 (A) He may leave the evaluation facility or place of  
16 evaluation at any time before the expiration of the 72 hours, upon  
17 notification of and consultation with his parent or guardian, or  
18 good faith attempts at notification and consultation.

19 (B) He is entitled to a hearing to establish his right  
20 to voluntary treatment without his parent's or guardian's consent,  
21 the hearing to be held no later than 72 hours after his admission  
22 unless his parent or guardian waives that time limit, in which case  
23 the hearing may be set for no later than seven calendar days after  
24 the initial admission. A minor may also waive the time limit pro-  
25 vided he is represented by counsel.

26 (C) He is entitled to communicate immediately, at the  
27 department's expense, with a private attorney or one from the  
28 office of mental health advocate whose business address and phone  
29 number he is entitled to know immediately and for whom he need not

1 pay if he is indigent. He is entitled to see his attorney within  
2 24 hours of arrival at the facility.

3 (D) The court shall have discretion to appoint a guard-  
4 ian ad litem if it does not believe the minor's interests would be  
5 adequately protected by the participation of the other parties in  
6 the proceeding and the representation of the minor by his attorney.  
7 The appointment of a guardian ad litem shall allow the court to  
8 postpone the hearing for no more than 24 hours.

9 (E) He has the right to present evidence and to cross-  
10 examine witnesses who may testify against his voluntary admission  
11 at the hearing.

12 (F) He has the rights set out in sec. 86(i) of this  
13 chapter concerning medication and other forms of treatment.

14 (4) Immediately following the minor's signing of voluntary  
15 admission papers for evaluation, the evaluation facility or personnel  
16 must have filed in court and served upon the minor's parents or guard-  
17 ian, with returns of service filed in court, a copy of these papers and  
18 a notice setting out

19 (A) the facts which brought the minor to the evaluation  
20 facility;

21 (B) that the minor has voluntarily requested to stay at  
22 the facility for evaluation;

23 (C) the facts that give the mental health professional  
24 reason to believe that the minor is mentally ill and that as a  
25 result is likely to cause serious harm to himself or others or the  
26 minor is in need of care and treatment in a treatment facility;

27 (D) that if the minor is not released earlier, there  
28 will be a hearing at a specified time, date and place, no later  
29 than 72 hours after the minor's admission, to determine whether the

1 minor shall be admitted voluntarily to a treatment facility without  
2 his parent's or guardian's consent, and that at the hearing the  
3 minor will be represented by counsel and possibly a guardian ad  
4 litem and that the parents or guardians will have full opportunity  
5 to participate, through counsel if they choose, in that hearing;

6 (E) that the parents or guardians may waive the 72-hour  
7 time limit on the hearing and have the hearing set for a date no  
8 more than seven days after the minor's admission;

9 (F) that the parents or guardians may retain their own  
10 attorney or have one appointed for them by the court;

11 (G) that the parents or guardians have the right to pre-  
12 sent evidence and cross-examine witnesses testifying on behalf of  
13 the minor at the hearing.

14 (5) The hearing shall be conducted substantially in confor-  
15 mance with secs. 136 - 151 of this chapter. Court-ordered voluntary  
16 treatment for a minor shall be based on the criteria for involuntary  
17 commitment set out in sec. 56 of this chapter; however, the court may  
18 order voluntary inpatient treatment for a minor if it finds, by clear  
19 and convincing evidence, that the minor is mentally ill and in need of  
20 inpatient care and treatment, even if it does not find that as a result  
21 of the minor's illness he is likely to cause serious harm to himself or  
22 others. The court must make a specific finding that the minor desires  
23 voluntary inpatient treatment on the basis of knowledge and understand-  
24 ing that he is ill and in need of treatment.

25 ARTICLE 1B. INVOLUNTARY ADMISSION FOR TREATMENT.

26 Sec. 47.30.056. COMMITMENT STANDARD. A person may be committed to  
27 a treatment facility under the procedures set out in this chapter only  
28 if he has a mental illness and as a consequence is likely to cause  
29 serious harm to himself or others and if there is reason to believe that

1 immediate inpatient care and treatment could improve his mental condi-  
2 tion.

3 Sec. 47.30.061. DETENTION FOR EVALUATION. (a) A person seeking  
4 the commitment of another to a treatment facility may initiate the  
5 proceedings by executing a petition for evaluation and presenting it to  
6 a district office or official. The petition must allege

7 (1) that the respondent is reasonably believed to be mentally  
8 ill and as a result is likely to cause serious harm to himself or others;

9 (2) the factual information on which this belief is based;  
10 and

11 (3) the names and addresses and phone numbers of all persons  
12 known to the petitioner who have knowledge of the facts through personal  
13 observation.

14 (b) A district official who receives a properly executed petition  
15 for evaluation shall investigate or cause to be investigated and evalu-  
16 ated the specific facts alleged and the reliability and credibility of  
17 the person providing the information. The investigation, to be com-  
18 pleted as promptly as possible, shall include observations of and conver-  
19 sation with the respondent in his home or other surroundings where he  
20 can be found or desires to meet, unless he cannot be found or refuses to  
21 meet with the district official. If after investigation the district  
22 official determines that there is good reason to believe that the re-  
23 spondent, as a result of mental illness, is likely to cause serious harm  
24 to himself or others, the district official may obtain from the court  
25 and cause to be served on the respondent and his guardian, if there is  
26 one, a summons requiring the respondent to appear at a specified evalua-  
27 tion facility for an evaluation period of not more than 72 hours. If  
28 there is no evaluation facility in the respondent's community, the  
29 district office shall determine whether evaluation personnel shall be

1 brought into the community or whether the respondent should be trans-  
2 ported to the nearest available evaluation facility at no cost to him.  
3 The summons shall then specify, as the place for the respondent to  
4 appear, the place of evaluation by evaluation personnel or the place of  
5 transport. The evaluation facility or personnel shall be given a copy  
6 of the petition and summons.

7 (c) The summons shall contain the following information:

8 (1) date and time within which the respondent must appear,  
9 not less than 24 hours after service of the summons;

10 (2) address of the evaluation facility, other place of evalua-  
11 tion, or place of transport to which the respondent is to report;

12 (3) name, business address and phone number of the district  
13 official issuing the summons;

14 (4) a statement that if the respondent fails to appear at the  
15 appointed place at or before the date and time stated in the summons, he  
16 may be involuntarily taken into custody and transported to the appointed  
17 place; and

18 (5) notice that an attorney from the office of mental health  
19 advocate may represent the respondent, without cost to him if he is  
20 indigent, if he does not wish or cannot afford to retain a private  
21 attorney, and the business address and phone number of the mental health  
22 advocate attorney; the summons shall be accompanied by a copy of the  
23 petition for evaluation and by a notice of rights regarding commitment  
24 procedures as set out in sec. 86 of this chapter.

25 (d) No summons may be served when more than seven days have passed  
26 since its issuance. No petition for evaluation may be used as the basis  
27 for issuance of a second summons after the first has expired unless  
28 subsequent investigation by the district official reveals that the  
29 grounds for evaluation still exist.

1 (e) If the person summoned fails to appear on or before the date  
2 and time specified, the evaluation facility shall immediately notify the  
3 district official who may cause the person to be taken into custody and  
4 transported to the evaluation facility. The district official shall  
5 also have the authority to cause a respondent who fails to appear for  
6 transport to be taken into custody. A peace officer may take the re-  
7 spondent into custody and convey him to an evaluation facility at the  
8 request of the district official.

9 Sec. 47.30.066. EMERGENCY DETENTION FOR EVALUATION. (a) If a  
10 district official receives information alleging that a person, as a  
11 result of mental illness, is likely to cause serious harm to himself or  
12 others, and upon investigation under sec. 61(b) of this chapter the  
13 official determines that the respondent is likely to cause serious harm  
14 to himself or others if allowed to respond to a summons rather than  
15 being taken into custody immediately, the official may cause the person  
16 to be taken into emergency custody in an evaluation facility for not  
17 more than 72 hours. A peace officer may assist the district official as  
18 provided in sec. 61(e) of this chapter.

19 (b) A peace officer who has reasonable cause to believe that a  
20 person is suffering from mental illness and is likely to cause serious  
21 harm to himself or others of such an immediate nature that considera-  
22 tions of safety do not allow preliminary intervention by a district  
23 official, may cause the person to be taken into custody and delivered to  
24 an evaluation facility. Upon arrival at the evaluation facility, the  
25 peace officer who so conveyed the person, or caused him to be conveyed,  
26 shall complete a petition for evaluation and be interviewed by a mental  
27 health professional at the facility. In no case may a respondent  
28 brought to an evaluation facility under the emergency procedures of this  
29 section be detained more than 12 hours without a determination by a

1 mental health professional that there are grounds for evaluation under  
2 sec. 61 of this chapter.

3 (c) If there is no evaluation facility in the respondent's commu-  
4 nity or the evaluation personnel are not presently there and the respon-  
5 dent needs to be detained for the arrival of evaluation personnel or  
6 transportation under sec. 61 of this chapter, the emergency custody  
7 under (a) and (b) of this section may include detention as long as the  
8 first available transportation out of the community for the respondent,  
9 or into the community for evaluation personnel, is utilized. Under no  
10 circumstances may the respondent be held in a jail or correctional  
11 facility if there is any other possible place of detention providing  
12 adequate security. In no event may a person be detained after the  
13 emergency has passed or longer than seven days, whichever limit is  
14 reached first. While detained, the respondent shall be given care and  
15 treatment that is appropriate and available in the community, subject to  
16 the right to refuse treatment as provided in sec. 86(i) of this chapter.

17 Sec. 47.30.071. SERVICE OF PETITION FOR EVALUATION, NOTICE OF  
18 RIGHTS AND SUMMONS. At the time a respondent is being taken into custody  
19 or within three hours of his arrival at the evaluation or detention  
20 facility, he and his guardian, if any and available, shall be served  
21 with a copy of the petition for evaluation, a notice of rights regarding  
22 commitment procedures as set out in sec. 86 of this chapter, the original  
23 summons, if any, and, if none, a notice providing that an attorney from  
24 the office of mental health advocate may, without cost if he is indigent,  
25 represent the respondent if he does not wish or cannot afford to retain  
26 a private attorney, and the business address and phone number of the  
27 mental health advocate attorney.

28 Sec. 47.30.076. PEACE OFFICERS, PLAIN CLOTHES. When peace officers  
29 are used to take respondents into custody under the provisions of this

1 chapter, every effort shall be made, within practicable limits, to have  
2 the officers dressed in plain clothes and driving unmarked vehicles.

3 Sec. 47.30.081. REQUIREMENT OF PETITION FOR EVALUATION, INVESTIGA-  
4 TION REPORT. An evaluation facility receiving a person under sec. 66 of  
5 this chapter shall require a proper petition for evaluation and, within  
6 18 hours after the arrival of the person, a proper investigation report.  
7 Unless the report containing the district official's determination that  
8 there are reasonable grounds to believe that the respondent is mentally  
9 ill and as a result is likely to cause serious harm to himself or others  
10 is filed at the facility or with the evaluation personnel within 18  
11 hours of the respondent's arrival and filed in court and served upon the  
12 respondent's attorney immediately thereafter, the respondent shall be  
13 discharged.

14 Sec. 47.30.083. ACCEPTANCE OF PETITION. When a facility receives  
15 a proper petition for evaluation it must accept the petition and the  
16 person for an evaluation period not to exceed 72 hours. The facility  
17 shall promptly notify the court of the date and time of the respondent's  
18 arrival. The court shall set a date, time and place for a probable  
19 cause hearing, to be held if needed within 72 hours after the respon-  
20 dent's arrival, and the court shall notify the facility, the respondent,  
21 his attorney, the prosecuting attorney, and the district official of the  
22 hearing arrangements. Evaluation personnel, where used, shall similarly  
23 notify the court of the date and time when they first met with the  
24 respondent.

25 Sec. 47.30.086. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)  
26 When a person is detained for evaluation under this chapter, he has, in  
27 addition to the rights specified in this chapter or otherwise applicable  
28 the rights enumerated in this section. As provided in (b) - (i) of this  
29 section and sec. 256 of this chapter, a written notice of these rights

1 shall be conveyed to the respondent upon his arrival at the facility.  
2 His guardian, if any, and, if the respondent consents, an adult member  
3 of his immediate family shall also be notified. An attempt shall be  
4 made by oral explanation to insure that the respondent understands the  
5 rights enumerated in the notice.

6 (b) Unless a person is released or voluntarily admits himself for  
7 treatment within 72 hours of his arrival at the facility (or the begin-  
8 ning of his meetings with evaluation personnel), he is entitled to a  
9 court hearing to be set for no later than the end of that 72-hour period  
10 to determine whether there is probable cause to detain him after the 72  
11 hours have expired for up to an additional 14 days on the grounds that  
12 he is suffering from a mental illness and as a result is likely to cause  
13 serious harm to himself or others and that inpatient care and treatment  
14 could improve his mental condition.

15 (c) An adult respondent may waive in writing the 72-hour time  
16 limit on the probable cause hearing and have the hearing set for a date  
17 no more than seven calendar days after initial detention. A minor re-  
18 spondent may have the same right to waive in writing the 72-hour time  
19 limit if he is represented by counsel.

20 (d) The 72-hour time limit may be extended to a date no more than  
21 seven calendar days after initial detention if necessary to transport  
22 parties, witnesses, the judge, or attorneys to the place of hearing.

23 (e) The respondent has a right to communicate immediately, at the  
24 department's expense, with a private attorney or one from the office of  
25 mental health advocate whose business address and phone number he is  
26 entitled to know immediately and for whom he need not pay if he is indi-  
27 gent. He shall be entitled to see his attorney within 24 hours of his  
28 arrival at the facility or of his first meeting with evaluation person-  
29 nel.

1 (f) The respondent has a right to retain an independent mental  
2 health professional of his own choosing or one who has agreed to work  
3 with the office of mental health advocate or to accept court appoint-  
4 ments to perform an independent mental health evaluation without cost to  
5 the respondent if he is indigent.

6 (g) The respondent has the right to remain silent, and any state-  
7 ment he makes may be used against him; however, if the respondent refuses  
8 to submit to evaluation, he will not have the right, at a hearing under  
9 this chapter, to present evidence based on any independent evaluation he  
10 may have had conducted.

11 (h) The respondent has the right to present evidence and to cross-  
12 examine witnesses who testify against him at the hearing.

13 (i) The respondent has the right to refuse medication and other  
14 forms of treatment before the probable cause hearing; however, the  
15 facility or evaluation personnel shall be able to treat him with medica-  
16 tion or a less restrictive alternative of his preference if, in the  
17 opinion of the licensed physician or mental health professional, these  
18 treatments may be necessary to prevent bodily harm to the respondent or  
19 others, or to prevent deterioration of the respondent's mental condition  
20 such that subsequent treatment might not enable him to recover. Further,  
21 he has the right to be free of the effects of medication at the probable  
22 cause hearing by discontinuance of medication no later than 48 hours  
23 before the hearing unless, in the opinion of the prescribing physician,  
24 the need for the medication as described in this paragraph still exists  
25 or discontinuation would hamper preparation of and participation in the  
26 proceedings.

27 Sec. 47.30.091. EVALUATION, TREATMENT AND CARE, RELEASE OF OTHER  
28 DISPOSITION. Each person undergoing evaluation at an evaluation facili-  
29 ty or otherwise shall be examined and evaluated as to physical and

1 mental condition by at least two mental health professionals at least  
2 one of whom is qualified to conduct an evaluation of the person's physi-  
3 cal health and none of whom shall be related to the respondent nor have  
4 a conflict of interest with either the respondent or the petitioner.  
5 The respondent shall receive the care and treatment his condition re-  
6 quires. However, he is entitled to refuse medication and other treat-  
7 ment before the probable cause hearing as stated in sec. 86(1) of this  
8 chapter. No person may be detained beyond 72 hours, or seven days if  
9 the 72-hour period is waived or extended under sec. 66 of this chapter,  
10 unless admitted voluntarily or committed by court order at the probable  
11 cause hearing.

12 Sec. 47.30.096. HOSPITALIZATION FOR PHYSICAL CONDITION. An evalua-  
13 tion facility or evaluation personnel receiving a person under this  
14 chapter whose physical condition reveals the need for hospitalization  
15 shall assure that the person is transferred to an appropriate hospital  
16 for treatment unless the person is capable of consenting to the treat-  
17 ment and refuses to so consent.

18 Sec. 47.30.101. TEMPORARY RELEASE DURING EVALUATION. When it  
19 appears safe to do so, the respondent may be permitted to leave an  
20 evaluation facility or place of evaluation during hours when his pre-  
21 sence there is not needed for purposes of evaluation. Release shall not  
22 be effected until an attempt has been made to notify the person who  
23 filed the petition for evaluation. If the respondent fails to return to  
24 the facility at the scheduled time, he may be taken into custody and  
25 returned to the facility. The 72-hour evaluation period may be extended  
26 for a period commensurate with the disruption of the evaluation process  
27 caused by the respondent's failure to return on schedule.

28 Sec. 47.30.106. RELEASE BEFORE EXPIRATION OF 72-HOUR PERIOD. If  
29 at any time in the course of the 72-hour period the mental health pro-

1           professionals conducting the evaluation determine that the respondent does  
2           not meet the standards for commitment specified in sec. 56 of this  
3           chapter, he shall be discharged from the facility or the place of evalua-  
4           tion by evaluation personnel and the petitioner so notified.

5           Sec. 47.30.111. PROCEDURE FOR 14-DAY COMMITMENT; PETITION FOR  
6           COMMITMENT. (a) In the course of the 72-hour evaluation period, a  
7           petition for commitment to a treatment facility may be filed in court.  
8           The petition must be signed by two mental health professionals who have  
9           examined the respondent. The petition must

10                   (1) allege that the respondent, by reason of mental illness,  
11                   is likely to cause serious harm to himself or others;

12                   (2) allege the facts and specific behavior of the respondent  
13                   which support the findings of mental illness and likelihood of causing  
14                   serious harm;

15                   (3) allege that the evaluation staff has considered but has  
16                   not found that there are any less restrictive alternatives available  
17                   that would adequately protect the respondent or others; or, if a less  
18                   restrictive involuntary form of treatment is sought, specify the treat-  
19                   ment and the basis for supporting it;

20                   (4) allege that there is reason to believe that the respon-  
21                   dent's mental condition could be improved by the course of treatment  
22                   sought;

23                   (5) allege that a specified treatment facility that is appro-  
24                   priate to the respondent's condition has agreed to accept the respon-  
25                   dent;

26                   (6) allege that the respondent has been advised of the need  
27                   for, but has not accepted, voluntary treatment; however, no person may  
28                   be pressured in any way to accept voluntary treatment;

29                   (7) request that the court commit the respondent to the

1 specified treatment facility or less restrictive alternative for a  
2 period not to exceed 14 days;

3 (8) list the prospective witnesses who will testify in sup-  
4 port of commitment or involuntary treatment.

5 (b) A copy of the petition shall be served on the respondent, his  
6 attorney, and his guardian, if any, before the probable cause of hear-  
7 ing.

8 Sec. 47.30.116. PROBABLE CAUSE HEARING. (a) Upon receipt of a  
9 proper petition for commitment, the court shall hold a probable cause  
10 hearing at the date and time previously specified according to proce-  
11 dures set out in sec. 83 of this chapter. The hearing shall be conduc-  
12 ted in the physical setting least likely to have a harmful effect on the  
13 mental or physical health of the respondent, within practicable limits.  
14 The evaluation facility, a hospital, the respondent's residence, or such  
15 other appropriate place as the court may determine may be used for the  
16 hearing.

17 (b) At the hearing, in addition to other rights specified in this  
18 chapter, the respondent has the right

19 (1) to be present at the hearing; this right may be waived  
20 only with the respondent's informed consent and by stipulation of the  
21 petitioner's and respondent's attorneys that there is a substantial  
22 likelihood that the respondent's presence would be severely injurious to  
23 his mental or physical health; if the respondent is incapable of giving  
24 informed consent, the respondent may be excluded from the hearing only  
25 if the court, after hearing, finds that there is such incapacity and  
26 that there is in fact a substantial likelihood that the respondent's  
27 presence at the hearing would be severely injurious to his mental or  
28 physical health;

29 (2) to present evidence on his behalf;

- 1 (3) to cross-examine witnesses who testify against him;  
2 (4) to remain silent;  
3 (5) to view and copy all petitions and reports in the court  
4 file;  
5 (6) to have the hearing open or closed to the public as he  
6 elects.

7 (c) Affidavits containing reports of examinations of mental health  
8 professionals or other witnesses' statements may be received in evidence;  
9 however, material portions which would not be admissible as the testi-  
10 mony of the witness if he were present shall be stricken upon the motion  
11 of either party or by the court on its own motion, and if the respondent  
12 demonstrates a substantial purpose in cross-examination of the witness  
13 and this purpose is related to the justification for detention or com-  
14 mitment, the court shall order the witness' presence.

15 (d) At the conclusion of the hearing the court may commit the re-  
16 spondent to a treatment facility for no more than 14 days only if it  
17 finds, by a preponderance of the evidence and states the factual basis  
18 that

- 19 (1) the respondent is suffering from mental illness and as a  
20 result is likely to cause serious harm to himself or others;  
21 (2) the respondent has been advised of the need for, but has  
22 not accepted, voluntary inpatient treatment;  
23 (3) there is reason to believe it is possible that the ordered  
24 treatment will improve the respondent's mental condition;  
25 (4) there is no less restrictive alternative to involuntary  
26 inpatient treatment that would adequately protect the respondent or  
27 others from the likelihood of serious harm occasioned by his illness.

28 (e) If the court makes the first finding but also finds that there  
29 is a viable less restrictive alternative available and that the respon-

1 dent has been advised of and refused voluntary treatment through the  
2 alternative, the court may order the less restrictive alternative treat-  
3 ment for not to exceed 14 days.

4 (f) The court shall specifically state to the person committed,  
5 and give the person written notice, that if commitment or other invol-  
6 untary treatment beyond the 14 days is to be sought, the person shall  
7 have the right to a full hearing or jury trial.

8 Sec. 47.30.121. ADDITIONAL CONFINEMENT. At the expiration of the  
9 14-day treatment ordered after a probable cause hearing, a person may be  
10 committed for further treatment for a period not to exceed 90 days if he  
11 continues to suffer from mental illness and as a result is likely to  
12 cause serious harm to himself or others and if there is reason to believe  
13 that continued inpatient care and treatment will improve his mental con-  
14 dition.

15 Sec. 47.30.126. PROCEDURE FOR 90-DAY COMMITMENT. (a) At any time  
16 during the first 10 days of a respondent's 14-day commitment, the profes-  
17 sional person in charge of the treatment facility to which the person  
18 has been confined, or his professional designee, may file with the court  
19 a petition for 90-day commitment of that person; however, the petition  
20 may be filed during the final four days of the commitment if the respon-  
21 dent has threatened, attempted, or inflicted serious bodily harm upon  
22 himself or another during the final six days of the commitment. The  
23 petition must

24 (1) allege that the respondent, by reason of mental illness,  
25 is likely to cause serious harm to himself or others;

26 (2) allege, in support of (1) of this subsection, specific  
27 behavior showing that the respondent is mentally ill and is likely to  
28 cause harm and specifically showing that he has threatened, attempted,  
29 or inflicted serious bodily harm upon himself or another since his

1 acceptance for evaluation, or that he was committed initially as a  
2 result of conduct in which he attempted or inflicted serious bodily harm  
3 upon himself or another;

4 (3) allege that the treatment staff has considered but has  
5 not found that there are any less restrictive alternatives available  
6 that would adequately protect the respondent or others, or, if a less  
7 restrictive involuntary form of treatment is sought, specify the treat-  
8 ment and the basis for supporting it;

9 (4) allege that there is a probability that the respondent's  
10 mental condition will be improved by the course of treatment sought;

11 (5) allege that a specified treatment facility that is appro-  
12 priate to the respondent's condition has agreed to accept the respon-  
13 dent;

14 (6) allege that the respondent has been advised of the need  
15 for, but has not accepted, voluntary treatment; however, no person may  
16 be pressured in any way to accept voluntary treatment;

17 (7) allege that the respondent has received adequate care and  
18 treatment during his 14-day commitment;

19 (8) request that the court commit the respondent to the  
20 specified treatment facility or less restrictive alternative for a  
21 period not to exceed 90 days;

22 (9) list the prospective witnesses who will testify in  
23 support of commitment;

24 (10) be accompanied by affidavits of one or more mental health  
25 professionals at the treatment facility who actually examined or obser-  
26 ved the respondent if the professionals are not the persons submitting  
27 and signing the petition for commitment, the affidavits to specify in  
28 detail the respondent's behavior justifying commitment under the stan-  
29 dards of this section.

1 (b) Copies of the petition for 90-day commitment shall be served  
2 upon the respondent, his attorney, and his guardian, if any. The peti-  
3 tion for 90-day commitment and proofs of service shall be filed with the  
4 clerk of the court, and a date for hearing shall be set, by the end of  
5 the next judicial day, for no later than five judicial days from the  
6 date of filing of the petition. The clerk shall notify the respondent,  
7 his attorney, and the petitioner of the hearing date at least three  
8 judicial days in advance of the hearing.

9 Sec. 47.30.131. 90-DAY COMMITMENT HEARING RIGHTS. (a) A person  
10 subject to a petition for 90-day commitment has, in addition to the  
11 rights specified elsewhere in this chapter, or otherwise applicable, the  
12 rights enumerated in this section. Written notice of these rights shall  
13 be served on the respondent, his attorney, and his guardian, if any, at  
14 the time the petition for 90-day commitment is served. An attempt shall  
15 be made by oral explanation to insure that the respondent understands  
16 the rights enumerated in the notice.

17 (b) Unless the respondent is released or voluntarily admits himself  
18 following the filing of a petition for 90-day commitment and before the  
19 hearing, he is entitled to a judicial hearing within five judicial days  
20 of the filing of the petition as set out in sec. 126(b) of this chapter  
21 to determine whether he is suffering from a mental illness and as a  
22 result is likely to cause serious harm to himself or others and whether  
23 there is a probability that inpatient care and treatment would improve  
24 his mental condition.

25 (c) The respondent is entitled to a jury trial upon request. If  
26 at the time of the hearing or any time before the hearing he requests a  
27 jury trial, the hearing may be continued for no more than 10 calendar  
28 days.

29 (d) If a jury trial is not requested, the court may still continue

1 the hearing at the respondent's request for no more than 10 calendar  
2 days.

3 (e) The respondent has a right to retain a private attorney or he  
4 may be represented, without cost to him if he is indigent, by an attor-  
5 ney from the office of mental health advocate, and he is entitled to  
6 know the business address and phone of the mental health advocate attor-  
7 ney immediately. He shall be entitled to see his attorney within 24  
8 hours of receipt of the petition for 90-day commitment.

9 (f) The respondent has the right to refuse medication and other  
10 forms of treatment before the hearing and after his 14-day commitment  
11 has expired; however, the facility shall be able to treat him as set out  
12 in sec. 86(1) of this chapter. He also has the same right to be free of  
13 the effects of medication at the 90-day commitment hearing as he had at  
14 the probable cause hearing under sec. 86(1) of this chapter.

15 (g) The respondent has those rights, to be fully set out in the  
16 notice, specified in sec. 86(f) - (h) of this chapter.

17 (h) Until the court issues a final decision, the respondent shall  
18 continue to be treated at the treatment facility unless the petition for  
19 90-day commitment is withdrawn. If no decision has been made within 20  
20 days of filing of the petition, not including extensions of time due to  
21 jury trial or other requests by the respondent, he shall be released.

22 Sec. 47.30.136. CONDUCT OF HEARING. The hearing shall be conducted  
23 in the same manner, and with the same rights for the respondent, as set  
24 out in sec. 116(a) - (c) of this chapter.

25 Sec. 47.30.141. COURT ORDER. (a) After the hearing and within  
26 the time limit specified in sec. 126 of this chapter, the court may  
27 commit the respondent to a treatment facility for no more than 90 days  
28 only if the court or jury finds by clear and convincing evidence

29 (1) that the respondent threatened, attempted, or inflicted

1 serious bodily harm upon himself or another since his acceptance for  
2 evaluation, or that he attempted or inflicted serious bodily harm upon  
3 himself or another within 30 days before the filing of the petition for  
4 evaluation;

5 (2) that the respondent, as a result of mental illness, is  
6 likely to cause serious harm to himself or others;

7 (3) that the respondent has received adequate care and treat-  
8 ment under the 14-day commitment;

9 (4) that there is reason to believe that the respondent's  
10 mental condition will be improved by the 90-day commitment;

11 (5) that the respondent has been advised of the need for, but  
12 has not accepted, voluntary inpatient treatment;

13 (6) that there is no less restrictive alternative to involun-  
14 tary inpatient treatment that would adequately protect the respondent or  
15 others from the likelihood of serious harm occasioned by his illness.

16 (b) If the court or jury makes the findings in (a)(1) - (3) of  
17 this section but also finds that there is a less restrictive alternative  
18 available and that the respondent has been advised of and refused volun-  
19 tary treatment through the alternative, the court may order the less  
20 restrictive alternative treatment for a period not to exceed 90 days.

21 Sec. 47.30.146. EXPEDITED APPEAL. The respondent shall have the  
22 right to an expedited appeal from an order of 90-day commitment or other  
23 involuntary treatment.

24 Sec. 47.30.151. PLACEMENT AT CLOSEST FACILITY. If space is avail-  
25 able, a respondent who is committed shall be placed by the court at the  
26 treatment facility closest to his home unless the court finds that

27 (1) another treatment facility has a program more suited to  
28 the respondent's condition, and this interest outweighs the desirability  
29 of the respondent being closer to home;

1 (2) another treatment facility is closer to the respondent's  
2 friends or relatives who could benefit him through their visits and  
3 communication; or

4 (3) the respondent wants to be further removed from his home,  
5 and the mental health professionals who sought his commitment concur in  
6 the desirability of removed placement.

7 Sec. 47.30.156. ADDITIONAL 90-DAY COMMITMENTS. (a) The respondent  
8 shall be released from involuntary treatment at the expiration of 90  
9 days unless the professional person in charge of the treatment facility,  
10 or his designee, has, at least 10 days before the expiration of the 90-  
11 day period, filed a petition for a second 90-day commitment on the  
12 grounds that the respondent has attempted or actually inflicted serious  
13 bodily harm on himself or another during the commitment period; however,  
14 the petition may be filed within the last 10 days of the 90-day period  
15 if the respondent has attempted to inflict or has inflicted serious  
16 bodily harm on himself or another with five days before the filing of  
17 the petition. The petition shall conform to the requirements of sec.  
18 126(a)(1) and (3) - (10) of this chapter except that all references to  
19 "14-day commitment" shall be read as "the current 90-day commitment".

20 (b) The procedures for service of the petition, notification of  
21 rights and judicial hearing shall be as set out in sec. 126 - 136 of  
22 this chapter. If the court or jury finds that the grounds for 90-day  
23 commitment as set out in sec. 141 of this chapter are present and fur-  
24 ther finds by clear and convincing evidence that during the first 90-day  
25 involuntary treatment period the treatment facility or facilities pro-  
26 vided prompt and adequate treatment, the court may order the respondent  
27 committed for an additional treatment period not to exceed 90 days from  
28 the date on which the first 90-day treatment period would have expired.

29 Sec. 47.30.161. TOTAL OF THREE 90-DAY COMMITMENTS ALLOWED. A per-

1 son may not be committed for more than a total of three 90-day involun-  
2 tary treatment periods unless he has, following discharge from involun-  
3 tary treatment, threatened or attempted to inflict, or inflicted bodily  
4 harm upon himself or others.

5 Sec. 47.30.166. COMMITMENT OF MINORS. A minor who refuses volun-  
6 tary admission may not be involuntarily admitted to a treatment facility,  
7 regardless of his parent's or guardian's consent or lack of consent,  
8 without adherence to the procedures set out in sec. 56 - 216 of this  
9 chapter for adult detention and commitment. However, all notices re-  
10 quired to be served on the respondent in secs. 56 - 216 of this chapter  
11 shall also be served on the parent or guardian of respondents who are  
12 minors, and parents or guardians of minor respondents shall be notified  
13 that they may appear as parties in any commitment proceeding concerning  
14 the minor and that as parties they are entitled to retain their own  
15 attorney or have one appointed for them by the court. A minor has the  
16 same rights to waiver and informed consent as an adult under this chap-  
17 ter; however, he shall be represented by counsel in waiver and consent  
18 proceedings.

19 Sec. 47.30.171. EARLY DISCHARGE. The professional person in  
20 charge of a treatment facility or his designee may at any time discharge  
21 a committed person on the ground that the person no longer is likely to  
22 cause serious harm as a result of mental illness. A certificate to this  
23 effect shall be sent to the court which shall enter an order officially  
24 terminating the involuntary commitment.

25 Sec. 47.30.176. AUTHORIZED ABSENCES. A respondent undergoing  
26 involuntary treatment on an inpatient basis under this chapter shall be  
27 given authorization to be absent from the treatment facility during  
28 times specified by the professional person in charge of the facility, or  
29 his designee, when an authorization to be absent is in the best interests

1 of the respondent and he is not likely to cause serious bodily harm to  
2 others.

3 Sec. 47.30.181. RETURN FROM UNAUTHORIZED ABSENCE. When a re-  
4 spondent undergoing involuntary treatment on an inpatient basis under  
5 this chapter is absent from the treatment facility without, or in excess  
6 of, authorization under sec. 176 of this chapter, the professional  
7 person in charge of the facility or his designee may cause the respond-  
8 ent to be taken into custody and returned to the treatment facility.

9 Sec. 47.30.186. INVOLUNTARY OUTPATIENT CARE FOR COMMITTED PERSONS.

10 (a) A committed person may be released before the expiration of his  
11 commitment period on the condition that he receive specified outpatient  
12 treatment from a provider of outpatient care, for a length of time not  
13 to exceed the duration of his commitment period, when the professional  
14 person in charge of the treatment facility or his designee, after con-  
15 sultation with the treatment team, finds that

16 (1) security for the person or others no longer requires that  
17 he be treated on an inpatient basis;

18 (2) the person is still suffering from mental illness and  
19 still is likely to cause serious harm to himself or others, or, if  
20 discharged without further treatment would probably revert back to that  
21 status within the time remaining in the commitment period;

22 (3) there is reason to believe that the person's mental con-  
23 dition would improve as a result of the specified outpatient treatment.

24 (b) A copy of the conditions for early release shall be given to  
25 the person, his attorney, his guardian, if any, the provider of out-  
26 patient care and the court.

27 (c) The provider of outpatient care may modify the conditions for  
28 early release when in the person's best interest. Notification of a  
29 change shall be given to the person, his attorney, his guardian, if any,

1 the facility providing inpatient care and the court.

2 (d) If at any time during the commitment period the provider of  
3 outpatient care determines that the person can no longer be treated on  
4 an outpatient basis because he is likely to cause harm to himself or  
5 others, the provider shall give the patient oral and written notice,  
6 with copies to the patient's attorney, his guardian, if any, the court  
7 and inpatient treatment facility, that he must return to the inpatient  
8 treatment facility within 24 hours for a length of time not to exceed  
9 the duration of his commitment period. If the specified treatment  
10 facility is not in the respondent's community or if transportation is  
11 otherwise a problem, the notice from the provider of outpatient care  
12 shall require the respondent to appear at a place where transportation  
13 to the treatment facility will commence. If the person fails to arrive  
14 at the treatment facility under a 24-hour notice, the facility may cause  
15 the person to be taken into custody and transported to the facility. A  
16 peace officer shall assist the provider of outpatient care or the facili-  
17 ty if requested.

18 (e) If the provider of outpatient care determines that the patient  
19 will require continued outpatient care after the expiration of his com-  
20 mitment period, the provider is entitled to initiate further commitment  
21 proceedings in the same manner as if the provider were the professional  
22 person in charge of a treatment facility, and the provisions of secs.  
23 156 - 161 of this chapter are applicable, except that provisions relat-  
24 ing to inpatient treatment shall be read as applicable to outpatient  
25 treatment.

26 Sec. 47.30.191. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO  
27 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the  
28 provisions of this chapter to receive involuntary outpatient treatment  
29 may be required to undergo inpatient treatment when the provider of out-

1 patient care finds that

2 (1) the respondent is still mentally ill and is likely to  
3 cause serious harm to himself or others;

4 (2) the respondent's behavior since the hearing resulting in  
5 court-ordered treatment indicates that he now needs inpatient treatment  
6 to protect himself or others;

7 (3) there is reason to believe that the respondent's mental  
8 condition will improve as a result of inpatient treatment; and

9 (4) there is an inpatient facility appropriate to the re-  
10 spondent's need which will accept him as a patient.

11 (b) Upon making the findings specified in (a) of this section, the  
12 provider of outpatient care shall give the respondent, his attorney, his  
13 guardian, if any, the court and the treatment facility written notice  
14 setting out those findings and the factual grounds for them and directing  
15 the respondent to report to a specified treatment facility at a date and  
16 time noted, no sooner than 24 hours from receipt of the notice by the  
17 respondent. This provision for notice may be waived under the condi-  
18 tions specified in sec. 186(d) of this chapter and the respondent may be  
19 taken into custody under the conditions specified in sec. 186(d) of this  
20 chapter. If the specified treatment facility is not in the respondent's  
21 community or if transportation is otherwise a problem, the notice from  
22 the provider of outpatient care shall require the respondent to appear  
23 at a place where transportation to the treatment facility will commence.  
24 The treatment facility shall notify the court of the date and time of  
25 the respondent's arrival.

26 (c) Upon receipt of the notice required by (b) of this section,  
27 and notification that the respondent has arrived at the treatment facili-  
28 ty, the court shall set a time, date and place for a hearing no later  
29 than five judicial days from the date of the respondent's arrival at the

1 facility and shall notify the respondent, his attorney, his guardian, if  
2 any, the provider of outpatient care and the treatment facility, accord-  
3 ingly. The respondent may waive the five-day period and have the hear-  
4 ing continued for no more than 10 calendar days. The hearing shall be  
5 before a judge unless combined with a hearing on a petition for 90-day  
6 commitment, in which case the respondent shall have the right to request  
7 a jury trial. The hearing shall be conducted in the same manner, and  
8 with the same rights for the respondent, as set out in secs. 86(e) - (h)  
9 and 116(a) - (c) of this chapter, and the treatment facility shall serve  
10 the respondent with a notice of these rights immediately upon his ar-  
11 rival at the facility.

12 (d) The court may order the respondent committed to a treatment  
13 facility for inpatient care for a length of time not to exceed the  
14 duration of any existing 90-day involuntary treatment period, or a new  
15 90-day period if a petition has been properly filed, if, on the basis of  
16 clear and convincing evidence, the court makes the findings specified in  
17 sec. 141(a)(1) - (6) of this chapter and in addition finds that the  
18 respondent's behavior since the prior court order for involuntary out-  
19 patient care indicates that the outpatient care is insufficient to  
20 protect the respondent or others from the likelihood of serious harm  
21 presented by the respondent as a result of his illness.

22 Sec. 47.30.196. RECORDS AND PROCEEDINGS. A verbatim transcript  
23 shall be made of all court hearings conducted under this chapter and a  
24 copy shall be provided to the respondent upon request for purposes of  
25 appellate or other court review of the proceedings.

26 Sec. 47.30.201. COMPUTING PERIODS OF TIME. (a) Except as pro-  
27 vided in (b) of this section:

28 (1) computations of a 72-hour evaluation period shall not  
29 include Saturdays, Sundays or legal holidays;

1 (2) a 14-day commitment period shall expire at the end of the  
2 14th day after the 72 hours following initial acceptance under sec.  
3 116(d) - (f) of this chapter;

4 (3) a 90-day commitment period shall expire at the end of the  
5 90th day after the expiration of a 14-day period of treatment or prior  
6 90-day period, whichever is applicable.

7 (b) When a respondent has failed to appear or absented himself  
8 contrary to any order properly made or entered under this chapter, the  
9 relevant evaluation or commitment period shall be extended for a period  
10 of time equal to the respondent's absence if oral and written notice of  
11 absence is promptly provided to the respondent's attorney and his guar-  
12 dian, if there is one, and if, within 24 hours after the respondent has  
13 returned to the evaluation or treatment facility, written notice of the  
14 corresponding extension and the reason for it is given to the respond-  
15 ent.

16 (c) A respondent who disputes an extension of a treatment period  
17 under (b) of this section may move the court to invalidate or modify the  
18 extension and shall have the right to a hearing on such a motion within  
19 five judicial days, or at the time of any commitment hearing.

20 Sec. 47.30.206. HABEAS CORPUS. Nothing in this chapter may be  
21 construed as limiting a person's right to a writ of habeas corpus.

22 Sec. 47.30.211. LIMITATION OF LIABILITY; PENALTY FOR FALSE APPLI-  
23 CATION. (a) A person acting in good faith upon either actual knowledge  
24 or reliable information who makes application for evaluation or treat-  
25 ment of another person under this chapter is not subject to civil or  
26 criminal liability.

27 (b) A mental health professional or peace officer who in good  
28 faith exercises his professional judgment in fulfilling an obligation or  
29 discretionary responsibility under this chapter is not subject to civil

1 or criminal liability for his act unless it can be shown that it was  
2 done with gross negligence.

3 (c) A person who makes application for evaluation or treatment of  
4 another person without having good cause to believe that the other  
5 person is suffering from a mental illness and as a result is likely to  
6 cause serious harm to himself or others, is guilty of a misdemeanor and  
7 is punishable by imprisonment for not more than one year, by a fine of  
8 not more than \$1,000, or by both.

9 Sec. 47.30.216. RETROACTIVITY. Except as provided in this chap-  
10 ter, the provisions of this chapter do not in themselves impair any  
11 action taken in a proceeding pending under statutes in effect before  
12 October 1, 1976, nor do they apply retroactively to terminate the  
13 detention of a person previously committed under statutes in effect  
14 before October 1, 1976. However, 90 days after October 1, 1976, the  
15 provisions of secs. 136 - 141 of this chapter apply to all persons  
16 committed under statutes in effect before October 1, 1976.

17 ARTICLE 1C. PATIENT RIGHTS.

18 Sec. 47.30.221. PATIENT RIGHTS - MEDICAL. All patients, volun-  
19 tarily or involuntarily committed, who are receiving services from a  
20 treatment facility licensed under AS 18.20.020, have the following  
21 rights:

22 (1) Every patient shall receive adequate physical and mental  
23 care and treatment for the full period of his stay at the facility.

24 (2) Within five days after the entry of an order for 90-day  
25 commitment or within 14 days after a respondent's transfer to a unit or  
26 facility different from the one at which he received treatment during a  
27 14-day commitment, whichever is later, or within 14 days from voluntary  
28 admission to a treatment facility, the professional person in charge of  
29 the patient's treatment, on consultation with the treatment team, shall

1 prepare an individualized treatment plan utilizing those available  
2 therapies considered potentially most beneficial to the patient which  
3 constitute the least restrictive alternatives for him. An evaluation of  
4 the patient's condition and progress and of the need for any changes in  
5 his treatment plan shall be conducted regularly by the treatment team  
6 and at least once every 90 days.

7 (3) The patient shall be entitled to participate in formu-  
8 lating his treatment plan and in the evaluation process as much as  
9 possible, at minimum to the extent of requesting specific forms of  
10 therapy, inquiring why specific therapies are or are not included in his  
11 treatment program, and being informed as to his present medical condi-  
12 tion and prognosis. The treatment team may withhold any of this informa-  
13 tion from the patient only when the withholding is necessary to protect  
14 the patient's mental health.

15 (4) A clinical record shall be kept for each patient detail-  
16 ing all medical and psychiatric evaluations and all care and treatment  
17 received by him. Counsel and guardian for a patient shall have the  
18 right at all reasonable times to examine all records of, and plans for,  
19 the patient's treatment and to make copies, upon payment of costs if  
20 requested, of any portion of these records.

21 (5) Except in emergencies, treatment may not be administered  
22 against the patient's will if he has expressed opposition to the treat-  
23 ment but has not had the opportunity to process the opposition through  
24 the grievance route required by sec. 241 of this chapter.

25 (6) All persons have the right to be free from unnecessary or  
26 excessive medication. Psychotropic medication shall be administered  
27 only in the best interests of the patient or to prevent serious harm to  
28 others, where no less restrictive alternative is available.

29 (7) No psychotropic medication may be administered except

1 upon the written order of a fully licensed physician who has examined  
2 the patient in person for the purposes of considering the medication.  
3 However, notwithstanding the provisions of (5) of this section, in  
4 emergencies, or where the patient is clearly in a state of acute anxiety  
5 or depression and knowingly requests specific medication which the  
6 facility's records reflect he has previously taken with satisfactory  
7 results, psychotropic medication may be administered upon telephone  
8 order of a fully licensed physician when the physician cannot immediately  
9 examine the patient in person. The order will expire if not reduced to  
10 writing immediately and signed by the prescribing physician no later  
11 than 24 hours after its initiation.

12 (8) The prescribing physician shall include in the patient's  
13 treatment record the diagnosis and the behavior and other signs and  
14 symptoms, with specific descriptive data, which indicate the use or an  
15 increase or decrease in the dosage of a prescribed psychotropic medi-  
16 cation. Characterization of behavior as assaultive, hostile or with-  
17 drawn, and similarly general and conclusory terms alone shall not  
18 suffice for purposes of this requirement. At least weekly the pre-  
19 scribing physician shall review the patient's treatment and progress,  
20 including beneficial and adverse effects of medication. All prescrip-  
21 tions of medication shall be written with a termination date which shall  
22 not exceed 30 days. The prescribing physician shall prescribe psycho-  
23 tropic medications only in consultation with the treatment team. If the  
24 prior scheduling of this consultation is impractical and the prescribing  
25 physician determines that immediate use of the psychotropic medication  
26 is in the patient's best interests or is necessary to prevent serious  
27 harm caused to others, he may order the use of the medication without  
28 consultation. In these cases, consultation with the treatment team must  
29 take place as soon as practical, but no later than one week after the

1 medication is ordered.

2 (9) Every patient has the right to know the name of medica-  
3 tion that he is asked to take, what its purpose is, and what side effects  
4 may occur with this medication. However, the prescribing physician may  
5 withhold information as to side effects if he has good reason to believe  
6 that the patient's mental health would suffer seriously by his divulging  
7 it. A patient may refuse medication if either

8 (A) it is not essential in the treatment team's con-  
9 sidered judgment to prevent his causing serious harm to himself or  
10 others, including the harm that his illness may become so serious  
11 without medication that his chances of recovery will be substan-  
12 tially lessened; or

13 (B) there is another available form of care or treat-  
14 ment such as placement in a quiet room that would accomplish  
15 substantially the same purpose as the proposed medication and that  
16 is preferable to the patient.

17 (10) Upon the termination, by expiration or discontinuance, of  
18 any psychotropic medication order, the prescribing physician shall note  
19 in the patient's treatment record his evaluation of both the effects of  
20 the medication upon the baseline behaviors established under (8) of this  
21 section, and the adverse effects which have been observed.

22 (11) The quiet room, or other form of physical restraint,  
23 shall not be used, except as provided in this paragraph unless a patient  
24 is likely to physically harm himself or others unless restrained. The  
25 form of restraint utilized should be that, which is in the patient's  
26 best interest and which constitutes the least restrictive alternative  
27 available. The patient, where practicable, shall be consulted as to his  
28 preference among forms of adequate, medically advisable restraints in-  
29 cluding medication, and his preference shall be honored. Nothing in

1 this section is intended to limit the right of staff to use the quiet  
2 room at the patient's request or with his knowing concurrence when deem-  
3 ed in the best interests of the patient. Patients placed in a quiet  
4 room or other physical restraint shall be checked at least every 15  
5 minutes or sooner if good medical practice so indicates. Patients in  
6 the quiet room must be visited by a staff member at least once every  
7 hour and must be given adequate food and drink and access to bathroom  
8 facilities. At no time may a patient be kept in the quiet room or other  
9 form of physical restraint against his will longer than necessary to  
10 accomplish the purposes set out in this paragraph.

11 (12) Neither medication nor physical restraint may be used,  
12 except in emergency, without prior discussion by the treatment team.  
13 All uses of the quiet room or other restraint shall be recorded in the  
14 patient's medical record, the information including but not limited to  
15 the reasons for its use, the duration of use, and the name of the autho-  
16 rizing staff member.

17 (13) In no event may treatment include electric shock, psy-  
18 chosurgery, lobotomy or other comparable form of treatment without  
19 specific informed consent of the patient, including a minor unless he is  
20 clearly too young or disabled to give an informed consent in which case  
21 the consent of his legal guardian shall be required. In addition, no  
22 such treatment may be given without a court order after hearing in  
23 accord with full rights of due process.

24 (14) When, in the written opinion of a patient's attending  
25 physician, a true medical emergency exists and a surgical operation is  
26 necessary to save the life, physical health, eyesight, hearing or member  
27 of the patient, the professional person in charge of the treatment  
28 facility or his designee may give consent to the surgical operation if  
29 the consent of the proper relatives or guardian cannot be had in time to

1 save the patient's life and time will not permit the obtaining of appro-  
2 priate judicial authority. However, no operation may be authorized if  
3 the patient is not a minor and knowingly withholds consent on religious  
4 grounds.

5 (15) If at the conclusion of the grievance procedure or court  
6 proceeding, the treatment facility's position in favor of specified  
7 treatment has been upheld and the patient remains opposed to administra-  
8 tion of the treatment, the facility may

9 (A) continue to treat a voluntary or committed patient  
10 using other forms of treatment;

11 (B) discharge a voluntary patient who continues to  
12 refuse the treatment or, if commitment standards can be met, ini-  
13 tiate commitment proceedings regarding the person;

14 (C) use minimum force necessary to constrain a committed  
15 patient to submit to the treatment in question when forced treat-  
16 ment is not prescribed by any other provision of this chapter;

17 (D) discharge a committed patient when other forms of  
18 treatment or forced use of the treatment in question are impractical  
19 or otherwise not in the best interests of the patient or the state.

20 (16) No person may be discharged from a treatment facility,  
21 except a voluntary patient leaving under sec. 41 of this chapter without  
22 a discharge plan specifying the kinds and amount of care and treatment  
23 he should have after discharge and such other steps as he might take to  
24 benefit his mental health after leaving the facility.

25 Sec. 47.30.226. CIVIL RIGHTS NOT IMPAIRED. Every person under-  
26 going evaluation or treatment under this chapter may not be denied a  
27 civil right, including but not limited to, the right to dispose of  
28 property, sue and be sued, enter into contractual relationships and  
29 vote. Court-ordered treatment or evaluation under this chapter is not a

1 determination of legal incompetency.

2 Sec. 47.30.227. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. Every  
3 person undergoing evaluation or treatment under this chapter shall

4 (1) not be photographed without his consent and that of his  
5 guardian if a minor, except that he may be photographed upon admission  
6 to a facility for identification and administrative purposes of the  
7 facility; all photographs shall be confidential and may not be released  
8 by the facility except under court order;

9 (2) at the time of admission to an evaluation or treatment  
10 facility, have reasonable precautions taken by the staff to inventory  
11 and safeguard his personal property; a copy of the inventory signed by  
12 the staff member making it shall be given to the patient and made avail-  
13 able to his attorney and any other person authorized by the patient to  
14 inspect the document;

15 (3) have access to individual storage space for his private  
16 use while undergoing evaluation or treatment;

17 (4) be permitted to wear his own clothing, to keep and use  
18 his own personal possessions including his toilet articles if they are  
19 not considered unsafe for him or other patients who might have access to  
20 them, and to keep and be allowed to spend a reasonable sum of his own  
21 money for his own needs and comfort.

22 Sec. 47.30.228. RIGHT TO REASONABLE VISITATION. Patients are  
23 entitled to have visitors at reasonable times, except that specific  
24 visitors may be restricted when the treatment team determines that there  
25 is a high likelihood that those persons would have a serious adverse  
26 effect upon the patient's medical condition; however, a patient is al-  
27 ways entitled to see his attorney or clergyman.

28 Sec. 47.30.229. RIGHT TO WRITTEN AND TELEPHONE COMMUNICATION.  
29 Every patient shall have ready access to letter writing materials, in-

1 cluding stamps, and has the right to send and receive unopened mail.  
2 Every patient shall have reasonable access to a telephone, both to make  
3 and receive confidential calls.

4 Sec. 47.30.231. PHYSICAL EXERCISE. Every effort shall be made to  
5 provide every patient who could benefit from it with frequent opportunity  
6 for physical exercise, preferably outdoors if the weather and medical  
7 condition of the patient permit.

8 Sec. 47.30.232. WORK. A patient may not be assigned work unless  
9 performance of the specific job assigned is in the patient's best in-  
10 terests and the patient receives payment required under state or federal  
11 law.

12 Sec. 47.30.233. CONFIDENTIAL RECORDS. All information and records  
13 obtained in the course of evaluation, examination or treatment shall be  
14 kept confidential and not as public records, except as the requirements  
15 of a hearing under this chapter may necessitate a different procedure.  
16 Information and records may only be disclosed under regulations estab-  
17 lished by the department to

18 (1) physicians and providers of health, mental health or  
19 social and welfare services involved in caring, treating or rehabili-  
20 tating the patient;

21 (2) individuals to whom the patient has given written consent  
22 to have information disclosed;

23 (3) persons legally representing the patient, upon proper  
24 proof of representation and unless the patient specifically withholds  
25 consent;

26 (4) persons authorized by a court order;

27 (5) persons doing research or maintaining health statistics,  
28 if the anonymity of the patient is assured, his consent is given, and  
29 the facility recognizes the project as a bona fide research or statis-

1 tical undertaking;

2 (6) the division of corrections in cases in which prisoners  
3 confined to the state prison are patients in the state hospital on  
4 authorized transfers either by voluntary admission or by court order;

5 (7) governmental or law enforcement agencies when necessary  
6 to secure the return of a patient who is on unauthorized absence from a  
7 facility where the patient was undergoing evaluation or treatment.

8 Sec. 47.30.236. EXPUNGEMENT OF RECORDS. Following the discharge  
9 of a respondent from a treatment facility or the issuance of a court  
10 order denying a petition for commitment, a respondent may at any time  
11 move to have all court records pertaining to the proceedings expunged on  
12 condition that he file a full release of all claims of whatever nature  
13 arising out of the proceedings and the statements and actions of persons  
14 and facilities in connection with the proceedings.

15 Sec. 47.30.241. GRIEVANCE ROUTE. Each facility shall develop a  
16 grievance route to be approved by the department through which a patient  
17 may challenge a decision made concerning his care and treatment and  
18 daily routine. The grievance route shall terminate with the professional  
19 person in charge of the facility, except that if a specific provision or  
20 right set out in this chapter is alleged to be violated and no correc-  
21 tion is made, the patient may appeal the matter to court within 10 days  
22 of receipt of the decision of the professional person in charge of the  
23 facility. The patient shall be entitled to legal representation through  
24 the office of mental health advocate if he cannot afford or does not  
25 wish to retain private counsel.

26 Sec. 47.30.246. DISCRIMINATION PROHIBITED. (a) A person who is  
27 or has been evaluated or treated for mental illness may not be discrimi-  
28 nated against in any manner, including but not limited to

29 (1) seeking employment;

1 (2) resuming or continuing professional practice or previous  
2 occupation;

3 (3) obtaining or retaining housing;

4 (4) obtaining or retaining licenses, or permits, including  
5 but not limited to motor vehicle licenses, motor vehicle operators and  
6 chauffeurs licenses and professional or occupational licenses.

7 (b) Applications for positions, licenses and housing shall contain  
8 no requests for information concerning evaluation or treatment experi-  
9 ences.

10 Sec. 47.30.251. JUDICIAL REVIEW. The court has authority to grant  
11 appropriate equitable relief for violation of any of the rights in secs.  
12 11 - 321 of this chapter or of any other provision of this chapter.  
13 These violations constitute misdemeanors and are punishable by a fine  
14 not more than \$10,000, or, by imprisonment of not more than one year, or  
15 by both, for each day of each offense.

16 Sec. 47.30.256. POSTING OF RIGHTS. The rights set out in secs.  
17 221 - 256 of this chapter shall be prominently posted in all treatment  
18 facilities in places accessible to all patients.

19 ARTICLE 1D. MISCELLANEOUS PROVISIONS.

20 Sec. 47.30.261. NOTICES IN NATIVE LANGUAGE. Where practicable,  
21 all documents and notices required by this chapter to be served on re-  
22 spondents or parents or guardians, shall be available in native languages,  
23 or persons shall be available to translate the documents into native  
24 languages.

25 Sec. 47.30.266. PLACEMENT WITH A UNITED STATES AGENCY. (a) If a  
26 court receives a certificate from an agency of the United States showing  
27 that accommodations are available and that the respondent is eligible  
28 for care, the court may order a respondent who is to be committed to be  
29 placed in the custody of that agency for inpatient treatment if the

1 placement would be in the respondent's best interest. When by court  
2 order a respondent is admitted to a facility operated by an agency of  
3 the United States inside or outside the state, the respondent is subject  
4 to the rules and regulations of the agency. The head of the facility  
5 operated by the agency and in which the respondent is placed has, with  
6 respect to the respondent, the same powers as the department or profes-  
7 sional person in charge of a treatment facility in the state concerning  
8 the detention, custody, conditional release or discharge of patients.  
9 However, the court retains the jurisdiction to inquire into the mental  
10 condition of a respondent so committed and to determine commitment  
11 periods under the provisions of this chapter, and every commitment order  
12 issued under this section is so conditioned.

13 (b) An order of a court of another state to an agency of the  
14 United States authorizing commitment of a respondent has the same effect  
15 as to the respondent while in this state as in the jurisdiction in which  
16 the court entering the order is located, and the courts of the juris-  
17 diction issuing the order retain jurisdiction of the individual for the  
18 purpose of inquiring into his mental condition and of determining the  
19 periods of his commitment. This state consents to the application of  
20 the law of the state in which the court issuing the order for commitment  
21 is located with respect to the authority of the head of the facility  
22 operated in this state by an agency of the United States to retain  
23 custody, transfer, conditionally release or discharge the respondent.  
24 This section does not prevent the state from entering into a contract  
25 with a federal agency for the custody and care or treatment of persons  
26 coming under the jurisdiction or assistance of the federal agency.

27  
28 Sec. 47.30.271. TRANSPORTATION. When a person is to be evaluated,  
29 committed or otherwise admitted to a facility under this chapter, the  
department shall arrange, if necessary, and is authorized to pay for,

1 the person's transportation to the designated facility with appropriate  
2 medical or nursing attendants and by the available means which are  
3 appropriate and suitable. The department may pay return transportation  
4 of a person and appropriate medical and nursing attendants after a  
5 determination that the person is not committable or at the end of a  
6 commitment period or voluntary stay at a treatment facility. When  
7 practicable one or more relatives or friends shall be permitted to  
8 accompany the person. The department may pay necessary travel, housing  
9 and meal expenses incurred by one relative or friend in accompanying the  
10 person to the facility if the department determines that the person's  
11 best interests require that he be accompanied by the relative or friend  
12 and the relative or friend is indigent. When necessary the department  
13 shall arrange for a peace officer or other suitable person to accompany  
14 the person.

15 Sec. 47.30.276. NONRESIDENT PATIENTS. (a) The admission papers of  
16 a person who is admitted to a treatment facility under this chapter  
17 shall include a statement as to his residence. The department may  
18 return a patient who is not a resident of the state to the state of his  
19 residence with court approval if the person has been committed. If the  
20 state in which he has residence does not accept him as a patient, the  
21 department may order his discharge unless he has been committed or, if a  
22 voluntary patient, is mentally ill and as a result is likely to cause  
23 serious harm to himself or others.

24  
25 (b) To facilitate the return of nonresident patients the depart-  
26 ment may enter a reciprocal agreement or compact with another state  
27 providing for the prompt return under appropriate supervision of resi-  
28 dents of that state who are mentally ill. Mentally ill residents of  
29 this state who have been placed in a facility outside this state may be  
admitted with the approval of the department to a treatment facility

1 designated by the department. The department may enter reciprocal  
2 agreements or contracts with another state providing for custody and  
3 care or treatment of mentally ill residents of this state by the other  
4 state and for the custody and care or treatment of mentally ill resi-  
5 dents of that state by this state on a reimbursable basis.

6 (c) In taking action under (a) and (b) of this section, consider-  
7 ation shall be given to the best interests of the patient particularly  
8 to the relationship of the patient to his family, legal guardian, or  
9 friends to maintain relationships and encourage visits beneficial to the  
10 patient.

11 Sec. 47.30.281. INTERSTATE COMPACT. This state ratifies and  
12 adopts by reference "The Interstate Compact on Mental Health" consisting  
13 of 14 articles approved on September 30, 1955, by the Northeast State  
14 Governments Conference on Mental Health. The department is designated  
15 as compact administrator with full power to carry out the purpose of the  
16 compact and to make all necessary regulations to implement the compact.

17 Sec. 47.30.286. RIGHTS OUTSIDE STATE. Nothing in sec. 266 of this  
18 chapter alters or impairs the application or availability to a patient  
19 while hospitalized in another state under contractual arrangements  
20 entered in accordance with the provisions of this chapter of the rights,  
21 remedies or protective safeguards provided by the laws of this state or  
22 of the other state.

23 Sec. 47.30.291. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The  
24 department shall make arrangements which are necessary to insure that

25 (1) no patient is discharged from a treatment facility with-  
26 out suitable clothing; and

27 (2) an indigent patient discharged is furnished suitable  
28 transportation to his permanent residence in this state or other suit-  
29 able place at the discretion of the department and a reasonable amount

1 of money to meet his immediate needs.

2 Sec. 47.30.296. DISPOSITION OF PERSONAL EFFECTS AND UNCLAIMED  
3 FUNDS. (a) All articles of personal property in the custody of a  
4 treatment facility which belong to a patient who dies before his dis-  
5 charge, or to a patient who leaves the hospital without authority, if  
6 unclaimed by the patient or his legal heirs or representatives within  
7 one year after the death or departure of the patient, shall be disposed  
8 of in the manner prescribed by the department and the proceeds shall be  
9 deposited in the state treasury. The money remaining to the credit of  
10 the patient, if unclaimed by his legal heirs or representatives or by  
11 the patient within the period of one year after the death or departure  
12 of the patient, shall be deposited in the state treasury.

13 (b) If a mentally ill individual has died in a foreign facility  
14 and the department desires to recover the patient's personal property  
15 under this section, the commissioner of health and social services or  
16 his designated representative may secure the property and for that pur-  
17 pose only is designated the decedent's administrator. All property so  
18 recovered shall be disposed of as provided by law.

19 Sec. 47.30.301. DISPOSITION OF FUNDS SUBJECT TO CLAIM. The  
20 department shall make diligent inquiry in every instance after departure  
21 without authority or death of a patient, to ascertain his whereabouts or  
22 that of his legal heirs or representatives, and shall turn over to the  
23 proper person the money or articles of personal property in the custody  
24 of the head of the facility to the credit of the patient. Claims to the  
25 money or articles of personal property, including claims by this state,  
26 may be presented to the department at any time. Claims by this state  
27 have priority as set out in sec. 306(d) of this chapter. If a claim  
28 other than by this state is established by clear and convincing evidence  
29 more than one year after the death or departure without authority of a

1 patient, it shall be certified to the legislature for consideration and  
2 the legislature may pay the claim.

3 Sec. 47.30.306. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT  
4 FACILITY AND TRANSPORTATION. (a) A voluntarily committed patient, or  
5 his legal representative acting in a representative capacity, shall pay  
6 or contribute to the payment of the charges for the care or treatment of  
7 the patient when placed in a treatment facility under this chapter, in  
8 the manner and proportion which the department finds is not detrimental  
9 to the patient's rehabilitation and which is within their ability to  
10 pay. The charges may not exceed the actual cost of the care or treat-  
11 ment as determined by the department. Only the patient, the patient's  
12 estate, or his guardian shall be held liable for treatment costs. The  
13 department may make necessary investigations to determine the ability to  
14 pay and may require sworn statements of income by the responsible per-  
15 sons. No involuntarily committed patient shall be charged for treatment  
16 or care received during his involuntary committment period.

17 (b) As used in (a) of this section, the term "actual cost of the  
18 care and treatment" means either the rate provided for by a contract  
19 entered into under this chapter, or, in the absence of a contract, a  
20 daily rate fixed by the department.

21 (c) The department may charge or accept from a person money or  
22 property for the care or treatment of an inpatient or outpatient or for  
23 other purposes, even if the payment is not required by an order of the  
24 department so long as the total payments received do not exceed the  
25 actual cost of care or treatment.

26 (d) The amount of liability for care and treatment not paid for by  
27 the patient or by someone in his behalf constitutes a lien in favor of  
28 this state against all property of the patient. The unpaid amount of  
29 liability is a debt to the state and is a first, prior and preferred

1 claim against the estate of the patient after death, and after expenses  
2 of administration and all just claims for medical care of last illness  
3 and burial expenses have been paid. The claim based upon information  
4 submitted by the department shall be prepared and filed by the attorney  
5 general.

6 (e) All money paid by the patient or on his behalf under this  
7 section shall be deposited in the state treasury.

8 Sec. 47.30.311. PROPERTY TAKEN UNDER EMINENT DOMAIN POWERS. (a)  
9 If a recipient's property to which, under sec. 306 of this chapter, a  
10 lien for assistance has attached is taken for urban renewal or other  
11 public purposes, the department, with the approval of the attorney  
12 general, may release its lien upon the property or the proceeds which  
13 are paid the recipient as a result of the taking.

14 (b) If the recipient expresses his intent to purchase a personal  
15 dwelling, the proceeds shall be paid by the taking authority into an  
16 escrow account under escrow instructions approved by the department. If  
17 the proceeds are paid into such an account and are applied by the recipi-  
18 ent within one year to the purchase of a personal dwelling, the proceeds  
19 may not cause a reduction of the amount of assistance to which the  
20 recipient would otherwise be entitled. The department shall inform the  
21 recipient of the provisions of this section at the time of the taking.

22 (c) Nothing in this section prohibits a lien in an amount equal to  
23 the total of all assistance granted the recipient from attaching to  
24 property purchased with the proceeds paid by the taking authority.

25 Sec. 47.30.316. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. The  
26 witnesses and the jury in commitment proceedings are entitled to the  
27 fees, compensation and mileage established by law. Compensation, mile-  
28 age, fees and other expenses arising from commitment proceedings shall  
29 be audited and allowed by the superior court of the district in which

1 the proceedings are held and when audited and allowed shall be paid by  
2 the clerk of the court in the same manner and from the fund as he pays  
3 the other incidental expenses of the court. To the extent that services  
4 of a peace officer are used to carry out the provisions of this chapter,  
5 he is entitled to fees and actual expenses from the same source and in  
6 the same manner as for his other official duties.

7 Sec. 47.30.321. DEFINITIONS. In this chapter

8 (1) "best interests" means when decisions whether to admin-  
9 ister a particular treatment or take a particular action must be made,  
10 the prospective benefits to the patient in terms of improved mental  
11 condition and functional abilities clearly outweigh the pain, discomfort,  
12 distress and hazards by a substantial margin;

13 (2) "court" means a superior court of the state;

14 (3) "department" means the Department of Health and Social  
15 Services or its designee;

16 (4) "district office" means a community mental health ser-  
17 vices office operated or designated by the department to fulfill at a  
18 minimum the investigation and other functions required of these offices  
19 by this chapter to be operated out of the geographical districts devel-  
20 oped by the department under the Community Mental Health Services Act;

21 (5) "district official" means a mental health professional  
22 employed in a district office and qualified to perform the investiga-  
23 tions and evaluations provided for in this chapter;

24 (6) "emergency" means a situation in which a patient's con-  
25 dition presents a likelihood of imminent serious harm or an active  
26 psychotic state dangerous to the patient's mental health;

27 (7) "evaluation facility" means a health care facility that  
28 has been designated or is operated by the department to perform the  
29 evaluations described in this chapter; however, no correctional insti-

1           tution or facility or jail may be or be used as an evaluation facility  
2           for purposes of this chapter;

3                   (8) "evaluation personnel" means mental health professionals  
4           designated by the department to conduct evaluations as prescribed in  
5           this chapter who conduct evaluations in places in which no staffed  
6           evaluation facility exists;

7                   (9) "individualized treatment plan" means a plan formulated  
8           by the treatment team in collaboration with the patient to provide  
9           prompt and adequate care and treatment appropriate to the patient's  
10          needs; the plan shall be in accord with the least restrictive alterna-  
11          tive principles; each plan shall contain

12                           (A) a statement of the specific problems and specific  
13           needs of the patient;

14                           (B) a statement of intermediate and long-range objec-  
15           tives with a projected timetable for their attainment;

16                           (C) a statement of and rationale for the plan of treat-  
17           ment for achieving these goals, including the specific modes of  
18           therapy to be used and the basic plan for the patient's daily  
19           routine;

20                           (D) a description of restrictions to be imposed on the  
21           patient's physical freedom during treatment and of significant  
22           deprivations, discomfort, pain or hazards involved in the treatment  
23           means, and a statement of whether any less restrictive alternatives  
24           are available and, if so, why they are not recommended;

25                           (E) a description to the extent not already indicated of  
26           medication to be administered to the patient, the dosage, and the  
27           conditions under which the medication would be reduced in dosage or  
28           withdrawn;

29                           (F) a specification of treatment staff responsibility

1 and description of proposed staff involvement with the patient in  
2 order to attain treatment goals;

3 (G) criteria for release to a less restrictive treatment  
4 conditions and for cessation of treatments involving significant  
5 discomfort, deprivations, pain and hazards; and

6 (H) a statement of recommendations for the transfer of  
7 the patient to any other facility or agency and for social or  
8 vocational rehabilitation or long-term treatment following, or in  
9 conjunction with the treatment described in (c) of this paragraph;

10 (10) "inpatient treatment" means care and treatment rendered  
11 inside or on the premises of a treatment facility, or a part or unit of  
12 a treatment facility for a continual period of 24 hours or longer;

13 (11) "investigation report" means a report containing the  
14 mental health professional's determination that the basis for ordering  
15 an evaluation of a given respondent does or does not exist, and the  
16 factual findings; the report should indicate what steps were taken in  
17 the investigation and should contain summaries of interviews conducted,  
18 including opinions as to the credibility of witnesses and also including  
19 statements as to why a specific interview may not have been conducted;

20 (12) "least restrictive alternative" means mental health  
21 treatment facilities and conditions of treatment which are

22 (A) no more harsh, hazardous or intrusive than neces-  
23 sary to achieve the treatment objectives of the patient; and

24 (B) involve no restrictions on physical movement nor  
25 supervised residence or inpatient care except as reasonably neces-  
26 sary for the administration of treatment or the protection of the  
27 patient or others from physical injury;

28 (13) "likely to cause serious harm" means

29 (A) a substantial risk of imminent and substantial



1 facility who has been designated by the department to accept for treat-  
2 ment patients who are ordered to undergo involuntary outpatient treatment  
3 by the court or who are released early from inpatient commitments on  
4 condition that they undergo outpatient treatment;

5 (19) "psychiatrist" means a physician who in addition to  
6 medical school has completed three years of residency training in psychia-  
7 try in a program approved by the American Medical Association or the  
8 American Osteopathic Association;

9 (20) "psychologist" means a person with a doctoral degree from  
10 an accredited university or college in a program that is primarily  
11 psychological and with no less than two years of supervised experience,  
12 one of which is subsequent to the granting of the doctoral degree; or a  
13 person licensed or certified as a psychologist for the independent  
14 practice of psychology by the state Board of Psychologist and Psycholo-  
15 gical Association Examiners;

16 (21) "resident" means a person who is residing in the state; a  
17 married woman may establish a residence apart from her husband, and an  
18 unemancipated minor takes the residence of the parent or guardian with  
19 whom he is living;

20 (22) "social worker" means a person with a master's or further  
21 advance degree from an accredited school of social work;

22 (23) "state" means a state of the United States, the District  
23 of Columbia, the territories and possessions of the United States, and  
24 the Commonwealth of Puerto Rico, and, with the approval of the United  
25 States Congress, Canada;

26 (24) "treatment" means an effort to accomplish a significant  
27 beneficial change in the mental or emotional condition or the behavior  
28 of a patient;

29 (25) "treatment facility" means a hospital, clinic, institu-

tion, center or other health care facility which has been designated by the department for the treatment or rehabilitation of mentally ill persons and for the receipt of these persons by court-ordered commitment;

(26) "treatment team" means those persons responsible for the planning and administration of the patient's treatment; each treatment team must consist of a minimum of two persons and must include a psychiatrist and one or more among the following: social worker, psychologist, nurse, health aide, and other persons whose professional services would benefit the patient or who have considerable contact with him at the treatment facility.

\* Section 3. This Act takes effect October 1, 1976.

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