

By Mr. King of Danvers, petition of John G. King and another relative to the care of the mentally ill and mentally retarded in comprehensive mental health area programs. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Six.

AN ACT RELATIVE TO THE CARE OF THE MENTALLY ILL AND MENTALLY RETARDED IN COMPREHENSIVE MENTAL HEALTH AREA PROGRAMS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 123 of the General Laws as
2 most recently amended by section 1 of chapter 760 of the Acts of
3 1971, is hereby amended by inserting after the second line thereof
4 the following definition:— “Area director,” an area director as
5 provided in section 18 of chapter 19 of the General Laws.

6 The said section 1 is further amended by inserting after the
7 words “commissioner of mental health” in line 3 thereof the
8 following definition:— “Comprehensive mental health area
9 program,” one or more departmental facilities as designated by
10 the commissioner, including but not limited to provisions for
11 inpatient care, day care, outpatient care, emergency services,
12 diagnostic consultation, education and evaluation services for
13 mentally ill and mentally retarded persons, under the direction of
14 an area director as provided in chapter 19 of the General Laws;
15 provided that certain of the said services may be provided by a
16 departmental facility not subject to the area director if so
17 designated by the commissioner.

18 The said section 1 of chapter 123 is further amended by
19 inserting after the words “department of mental health” in line 4
20 thereof the following definition:— “Departmental facility,” any
21 facility which is the regular place of work of any employee of the
22 department or of a person who receives directly or indirectly his

23 principal compensation from funds of the department.

1 SECTION 2. Section 3 of chapter 123 of the General Laws, as
2 most recently amended by section 4 of chapter 888 of the Acts of
3 1970, is hereby further amended by striking out the said section
4 and inserting in place thereof the following section: —

5 *Section 3.* The department may transfer any person from any
6 facility to any other facility which the department determines is
7 suitable for the care and treatment of such person; provided that
8 no transfer to a private facility shall occur except with the
9 approval of the head thereof. Whenever such transfer is from one
10 facility to another facility within a comprehensive mental health
11 area program, the transfer may be made by the area director, and
12 written notice thereof shall be given to the nearest relative or
13 guardian within twenty-four hours after the transfer. Whenever
14 such transfer is from one facility to another facility not within a
15 single comprehensive mental health area program, the transfer
16 shall be approved by the area directors having charge of the
17 facilities, provided that if no agreement can be reached the
18 transfer decision shall be made by the appropriate regional
19 administrator or administrators or, if necessary, by the com-
20 missioner, and at least six days before a transfer from a facility,
21 the head of that facility shall give written notice of the intent
22 thereof to the person and to the nearest relative or guardian of the
23 person to be transferred; provided, however, that if the transfer
24 must be made immediately because of an emergency, such notice
25 shall be given within twenty-four hours after the transfer. If the
26 person to be transferred, his nearest relative or guardian, is
27 aggrieved by the transfer, he or other said designated person may
28 request a hearing before the persons ordering the transfer who
29 shall immediately grant or deny the appeal of the transfer. If this
30 appeal is denied, the person so aggrieved may appeal to the
31 regional administrator having charge of the sending facility who
32 shall, after a hearing of all parties concerned, grant or deny the
33 appeal of the transfer within one week of the hearing. Except in
34 emergency cases, no person who prior to transfer has given notice
35 of his intention to leave under the provisions of section eleven of
36 this chapter or who has appealed as provided in this section shall
37 be transferred until a final determination has been made as to
38 whether such person should be retained in that facility.

1 SECTION 3. Section 4 of chapter 123 of the General Laws, as
2 most recently amended by section 1 of chapter 845 of the Acts of
3 1974, is hereby further amended by adding in line 4 after the
4 words "supervision of" the following: — "the area director, or if
5 there is in any area no area director in charge of a comprehensive
6 mental health area program, then the superintendent" and by
7 inserting in line 18 before the words "the superintendent" the
8 following words: — "the area director or"

1 SECTION 4. Said section 4 of chapter 123 of the General
2 Laws is hereby further amended in paragraph 2, line 1 by adding
3 after the word "treatment," the following: — "the area director
4 or." Paragraph 3, line 3 is amended by adding after the word "if"
5 the following: — "the area director or."

1 SECTION 5. Said section 4 of chapter 123 of the General
2 Laws is hereby further amended in paragraph 3, line 1 by adding
3 after the word "person" the following: "who is a resident of a
4 residential facility for the retarded listed in section 14A of chapter
5 19."

1 SECTION 6. Section 7 of chapter 123 of the General Laws, as
2 most recently amended by section 4 of chapter 888 of the Acts of
3 1970, is hereby further amended by striking out paragraph (a) of
4 said section and inserting in place thereof the following new
5 paragraph: —

6 (a) The area director in charge of a comprehensive mental
7 health area program, or if there be no such area director the
8 superintendent or medical director of a facility, may petition the
9 district court in whose jurisdiction the program or facility is
10 located for the commitment to the said program or facility and
11 the retention of any patient in a facility whom the said area
12 director or superintendent determines would create a likelihood
13 of serious harm by reason of mental illness if the patient is not so
14 committed.

1 SECTION 7. Section 9 of chapter 123 of the General Laws, as
2 most recently amended by section 4 of chapter 888 of the Acts of
3 1970, is hereby further amended by inserting in line 8 of

4 paragraph (b) before the word “superintendent” and in line 15 of
5 said paragraph (b) before the word “superintendent”, in each
6 instance, the following words: — “area director, the.”

1 SECTION 8. Section 10 of chapter 123 of the General Laws,
2 as most recently amended by section 48 of chapter 925 of the Acts
3 of 1973, is hereby further amended by striking out the said section
4 and inserting in place thereof the following section: —

5 *Section 10.* (a) Pursuant to departmental regulations on
6 procedures to admit patients to inpatient facilities, an area
7 director or a person designated by him, or if there is in any area
8 no area director in charge of a comprehensive mental health area
9 program, then the superintendent, may receive and retain on a
10 voluntary basis any person in need of care and treatment. The
11 admitting facility shall determine within twenty-four hours that
12 the person was suitable for admission to that facility and if he or
13 she is not, the area director shall transfer him to a suitable facility,
14 or, in the absence of an area director, the superintendent shall
15 initiate a transfer as provided in section 3. The application for
16 admission may be made (1) by a person who has attained the age
17 of sixteen, or (2) by a parent or guardian on behalf of a person
18 under the age of eighteen, and (3) by the guardian on behalf of a
19 person under his or her guardianship. The area director or
20 superintendent may discharge any person admitted under the
21 provisions of this paragraph at any time he deems such discharge
22 to be in the best interest of such person; provided, however, that if
23 the person, parent or guardian who made application for the
24 admission, having been given notice of the intent to discharge, is
25 aggrieved thereby, he may appeal under the provisions of section
26 3 as if the discharge were equivalent to a transfer.

27 (b) The chief officer of any facility of the Veterans Administra-
28 tion within the Commonwealth may admit eligible persons under
29 the provisions of this chapter and thereupon shall be vested with
30 the same powers as the department has under this chapter with
31 respect to retention or discharge.

1 SECTION 9. Section 11 of chapter 123 of the General Laws,
2 as most recently amended by section 4 of chapter 888 of the Acts
3 of 1970, is hereby further amended by inserting twice in line 5

4 before the word “superintendent” and in line 17 also before the
5 word “superintendent” in each instance the following words: —
6 “area director or the”.

1 SECTION 10. Section 12 of chapter 123 of the General Laws,
2 as most recently amended by section 4 of chapter 888 of the Acts
3 of 1970, is hereby further amended by inserting in line 8 of
4 paragraph (c) before the word “superintendent”, in line 2 of
5 paragraph (d) before the word “superintendent”, and in line 12 of
6 paragraph (e) before the word “superintendent”, in each instance
7 the following words: — “area director or the.”

1 SECTION 11. Section 13 of chapter 123 of the General Laws,
2 as most recently amended by section 4 of chapter 888 of the Acts
3 of 1970, is hereby further amended by inserting in line 1 before
4 the word “superintendent” and in line 8 before the word
5 “superintendent”, in each instance, the following words: — “area
6 director or the.”

1 SECTION 12. Section 16 of chapter 123 of the General Laws,
2 as most recently amended by section 4 of chapter 888 of the Acts
3 of 1970, is hereby further amended by inserting in line 5 of
4 paragraph (b) and in line 11 of paragraph (b) before the word
5 “superintendent” the following words: — “area director, the”.

1 SECTION 13. Said Section 16 is further amended by the
2 deletion of the third sentence of paragraph (e) and the insertion of
3 the following sentence: — “In the event the area director, the
4 superintendent of a facility or the director of the Bridgewater
5 state hospital communicates his intention to remove or modify
6 such restriction in writing to the court and within fourteen days
7 the court does not make written objection thereto, such
8 restriction shall be removed pursuant to the intent.”

1 SECTION 14. Said Section 16 is further amended by inserting
2 in line 12 of paragraph (e) before the word “superintendent” and
3 in line 18 before the words “medical director” the following
4 words: — “area director, the”.

1 SECTION 15. Section 21 of chapter 123 of the General Laws,
2 as most recently amended by chapter 888 of the Acts of 1970, is
3 hereby further amended by inserting in line 5 of the third
4 paragraph before the word "superintendent" the following
5 words:— "area director, the." The said section 21 is further
6 amended by deleting in line 6 the word "him" and inserting in
7 place thereof the following words:— "one of them."

1 SECTION 16. Section 26 of chapter 123 of the General Laws,
2 as most recently amended by section 4 of chapter 888 of the Acts
3 of 1970, is hereby further amended by inserting in line 2 before
4 the word "superintendent" the following words:— "area director
5 or the."

1 SECTION 17. Section 27 of chapter 123 of the General Laws,
2 as most recently amended by section 4 of chapter 888 of the Acts
3 of 1970, is hereby further amended by striking out paragraph (a)
4 and inserting in place thereof the following paragraph:—
5 "(a) The department may receive and shall hold in trust or use
6 for the benefit of persons who are inpatients or residents at any
7 facility of the department funds belonging to such persons, funds
8 deposited by relatives or friends of such persons, and other funds
9 belonging to such persons. The commissioner shall designate
10 persons of trust within the department who shall accept such
11 funds and may deposit them in any bank organized and existing
12 under the laws of the commonwealth, and shall expend them in
13 accordance with rules of the department. The designated trustee
14 may endorse for deposit with such funds only checks which do
15 not exceed five hundred dollars in value payable to such persons
16 who are unable or refuse to endorse such checks for the purpose
17 of depositing them. Upon request of any such person, or the
18 nearest relative, guardian or conservator of such person, the
19 designated trustee shall render a complete written account of all
20 funds which have been expended or are held in trust for the
21 person. Upon the discharge of such person, the department shall
22 render such an account of funds received and shall pay over to
23 such person all such funds which it holds in trust for him."

1 SECTION 18. Said section 27 of chapter 123 of the General
2 Laws is hereby further amended by striking out in line 1 of

3 paragraph (b), in line 5 of paragraph (b), in line 12 of paragraph
4 (b), in line 5 of paragraph (c) and in line 6 of paragraph (c), in
5 each instance, the word "superintendent" and inserting in place
6 thereof the following words: — "designated trustee".

1 SECTION 19. Section 28 of chapter 123 of the General Laws,
2 as most recently amended by section 4 of chapter 888 of the Acts
3 of 1970, is hereby further amended by inserting in line 3 before
4 the word "superintendent" the following words: — "area director
5 or the."

1 SECTION 20. Section 30 of chapter 123 of the General Laws,
2 as most recently amended by section 4 of chapter 888 of the Acts
3 of 1970, is hereby further amended by inserting in line 5 before
4 the word "superintendent" the following words: — "area director
5 or the."

1 SECTION 21. Section 35 of chapter 123 of the General Laws,
2 as most recently amended by section 4 of chapter 888 of the Acts
3 of 1970, is hereby further amended by striking out in line 11 of the
4 third paragraph and in line 16 of the said third paragraph the
5 word "superintendent" and inserting in place thereof the
6 following words: — "head of such facility".

1 SECTION 22. Whenever there is established a comprehensive
2 mental health area program which includes a unit of a state
3 hospital, the commissioner may transfer responsibility for any
4 person in that unit from the superintendent of the hospital to the
5 area director responsible for the said unit, and such transfer shall
6 be exempt from the provisions of section 3.

1 SECTION 23. Any funds of patients or residents received by
2 the superintendent of a facility of the department and held in trust
3 for the said patient or resident before the effective date of this act
4 shall be transferred to a trustee designated as provided in section
5 18 and all actions of the superintendent as trustee shall have force
6 as if they had been performed by the designated trustee.

