

HOUSE No. 5518

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 18, 1978.

The committee on Human Services and Elderly Affairs, to whom was referred so much of the recommendations of the Office of Children (House, No. 7) as relates to prohibiting admission of persons under eighteen years of age to Bridgewater State Hospital (House, No. 12), report recommending that the accompanying bill (House, No. 5518) ought to pass.

For the committee,

DAVID J. MOFENSON.

The Commonwealth of Massachusetts

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

AN ACT PROHIBITING ADMISSION OF PERSONS UNDER EIGHTEEN YEARS OF AGE TO BRIDGEWATER STATE HOSPITAL.

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. Chapter 123 of the General Laws is hereby
2 amended by striking out section 5, as amended by section 2 of
3 chapter 569 of the acts of 1973, and inserting in place thereof the
4 following section:—

5 *Section 5.* Whenever the provisions of this chapter relative to
6 the commitment of the mentally ill require that a hearing be
7 conducted in any court for the commitment or further retention of
8 a person to a facility or to the Bridgewater state hospital, it shall be
9 held as hereinafter provided. Such person shall have the right to be
10 represented by counsel and shall have the right to present
11 independent testimony. The court shall appoint counsel for such
12 person whom it finds to be indigent or who is under eighteen years
13 of age and who is represented by counsel, unless such person
14 refuses the appointment of counsel. The court may provide an
15 independent medical examination for such indigent person or for
16 such person under eighteen years of age upon the request of his
17 counsel or upon his request if he is not represented by counsel. The
18 person shall be allowed not less than two days after the appearance
19 of his counsel in which to prepare his case and a hearing shall be
20 conducted forthwith after such period unless counsel requests a
21 delay. Notice of the time and place of hearing shall be furnished by
22 the court to the department, the person, his counsel, and his
23 nearest relative or guardian. The court may hold the hearing at the
24 facility or said hospital.

1 SECTION 2. Paragraph (b) of section 6 of said chapter 123, as
2 most recently amended by section 1 of chapter 356 of the acts of
3 1976, is hereby further amended by inserting after the word

4 “counsel”, in line 4, the words: — ;provided, however, that a
5 hearing shall be held without fourteen days of the filing of a
6 petition whether or not a request for a hearing is made if the person
7 who is the subject of the petition is under eighteen years of age.

1 SECTION 3. Paragraph (b) of section 7 of said chapter 123, as
2 appearing in section 5 of chapter 760 if the acts of 1971, is hereby
3 amended by inserting after the word “illness”, in line 8, the
4 words: — ;provided, however, that a petition may not be filed for
5 the commitment of a patient under eighteen years of age to the
6 Bridgewater state hospital.

1 SECTION 4. Paragraph (c) of said section 7 of said chapter
2 123, as most recently amended by section 2 of chapter 356 of the
3 acts of 1976, is hereby further amended by inserting after the word
4 “person”, in line 2, the words: — eighteen years of age or older.

1 SECTION 5. Said section 7 of said chapter 123 is hereby
2 further amended by adding the following paragraph: —

3 (d) Whenever a court receives a petition filed under any
4 provision of this chapter for an order of commitment of a person
5 who is under eighteen years of age, the court shall set a date for a
6 hearing and notify the person and his nearest relative or guardian
7 of the receipt of a petition, of the date of the hearing and of the
8 right of the person to be represented by counsel. The date for the
9 hearing shall be within fourteen days of the date of filing of the
10 petition.

1 SECTION 6. Paragraph (a) of section 8 of said chapter 123, as
2 appearing in section 3 of chapter 356 of the acts of 1976, is hereby
3 further amended by inserting after the word “person”, in line 3, the
4 words: — eighteen years of age or older.

1 SECTION 7. Paragraph (b) of said section 8 of said chapter
2 123, as so appearing, is hereby amended by inserting after the word
3 “person”, in line 2, the words: — eighteen years of age or older.

1 SECTION 8. Paragraph (c) of said section 8 of said chapter
2 123, as so appearing, is hereby amended by adding after the word

3 “period” the following sentence:— The court shall not commit any
4 person under eighteen years of age to Bridgewater state hospital.

1 SECTION 9. Paragraph (*d*) of said section 8 of said chapter
2 123, as so appearing, is hereby amended by inserting after the word
3 “person” in line 2, the words:— eighteen years of age or older.

1 SECTION 10. Paragraph (*f*) of said section 8 of said chapter
2 12, as so appearing, is hereby amended by inserting after the word
3 “person”, in line 3, the words:— eighteen years of age or older.

1 SECTION 11. Section 13 of said chapter 123, as amended by
2 section 11 of chapter 760 of the acts of 1971, is hereby further
3 amended by adding the following sentence:— No person under the
4 age of eighteen may be transferred to the Bridgewater state
5 hospital.

1 SECTION 12. Paragraph (*b*) of section 15 of said chapter 12, as
2 appearing in section 12 of said chapter 760, is hereby amended by
3 inserting after the word “male”, in line 3, the words:— eighteen
4 years of age or older.

1 SECTION 13. The first sentence of paragraph (*e*) of said
2 section 15 of said chapter 123, as appearing in section 4 of chapter
3 888 of the acts of 1970, is hereby amended by inserting after the
4 word “male”, in line 5, the words:— eighteen years of age or older.

1 SECTION 14. Said paragraph (*e*) of said section 15 of said
2 chapter 123, as most recently amended by section 8 of chapter 569
3 of the acts of 1973, is hereby further amended by adding the
4 following sentence:— A person under eighteen years of age may
5 not be committed to Bridgewater state hospital.

1 SECTION 15. Paragraph (*a*) of section 16 of said chapter 123,
2 as appearing in section 4 of chapter 888 of the acts of 1970, is
3 hereby amended by inserting after the word “male”, in line 6, the
4 words:— eighteen years of age or older.

1 SECTION 16. Paragraph (b) of said section 16 of said chapter
2 123, as amended by section 13 of chapter 760 of the acts of 1971, is
3 hereby further amended by inserting after the word "person", in
4 line 16, the words: — if he is eighteen years of age or older;.

1 SECTION 17. Said paragraph (b) of said chapter 16 of said
2 chapter 123 is hereby further amended by adding the following
3 sentence:— A person under the age of eighteen shall not be
4 detained at the Bridgewater state hospital.

1 SECTION 18. Section 18 of said chapter 123 is hereby
2 amended by striking out paragraph (a), as most recently amended
3 by section 14 of chapter 569 of the acts of 1973, and inserting in
4 place thereof the following paragraph:—

5 (a) If the person in charge of any place of detention within the
6 commonwealth has reason to believe that a person confined
7 therein is in need of hospitalization by reason of mental illness at a
8 facility of the department or at the Bridgewater state hospital, he
9 shall cause such prisoner to be examined at such place of detention
10 by a physician or physicians designated by the department as
11 qualified to perform such examination. Said physician or
12 physicians shall report the results of the examination to the district
13 court which has jurisdiction over the place of detention or, if the
14 prisoner is awaiting trial, to the court which has jurisdiction of the
15 criminal case. Such report shall include an opinion, with reasons
16 therefor, as to whether such hospitalization is actually required.
17 The court which receives such report may order the prisoner to be
18 taken to a facility or, if a male eighteen years of age or older, to the
19 Bridgewater state hospital to be received for examination and
20 observation for a period not to exceed thirty days. After
21 completion of such examination and observation, a written report
22 shall be sent to such court and to the person in charge of the place
23 of detention. Such report shall be signed by the physician or
24 physicians conducting such examination and shall contain an
25 evaluation, supported by clinical findings, of whether the prisoner
26 is in need of further treatment and care at a facility or, if a male
27 eighteen years of age or older, the Bridgewater state hospital by
28 reason of mental illness. The person in charge of the place of

29 detention shall have the same right as a superintendent of a facility
30 to file a petition with the court which received the results of the
31 examination for the commitment of the person to a facility or, if
32 the person is a male eighteen years of age or older to the
33 Bridgewater state hospital; provided that, notwithstanding the
34 court's failure, after an initial hearing or after any subsequent
35 hearing, to make the finding required for commitment to the
36 Bridgewater state hospital, the prisoner shall be confined at said
37 hospital if the findings required for commitment to a facility are
38 made and if the commissioner of corrections certifies to the court
39 that confinement of the prisoner at said hospital is necessary to
40 insure his continued detention in custody. No person under the age
41 of eighteen years may be confined at Bridgewater state hospital.
42 An initial court order of commitment issued subject to the
43 provisions of this section shall be valid for a six-month period, and
44 all subsequent commitments during the term of the sentence shall
45 take place under the provisions of sections seven and eight and
46 shall be valid for one year.

1 SECTION 19. The commissioner of mental health shall
2 conduct or cause to have conducted a comprehensive assessment
3 of the mental health of any person under the age of eighteen years,
4 who, upon the effective date of this act, has been committed to the
5 Bridgewater state hospital or who is being observed at the
6 Bridgewater state hospital under sections seven, eight, fifteen,
7 sixteen or eighteen of chapter one hundred and twenty-three of the
8 General Laws as in effect immediately prior to the effective date of
9 this act and shall, within six months of the effective date of this act,
10 determine the appropriate facility for treatment of each such
11 person or determine that the person is no longer in need of
12 treatment. Within six months of the effective date of this act, the
13 commissioner of mental health and the medical director of the
14 Bridgewater state hospital shall effectuate transfer or discharge of
15 each such person in accordance with the provisions of chapter one
16 hundred and twenty-three of the General Laws as amended by this
17 act. Notwithstanding the provisions of this section, any discharges
18 or transfers ordered by a court or permitted or required by any
19 other provision of law, shall be executed.

