

# HOUSE . . . . . No. 5572

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## *The Commonwealth of Massachusetts*

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HOUSE OF REPRESENTATIVES, April 29, 1986.

The committee on Human Services and Elderly Affairs to whom was referred the petition (accompanied by bill, House, No. 3208) of Barbara E. Gray and Angelo M. Scaccia for legislation to further define mental illness, reports recommending that the accompanying bill (House, No. 5572) ought to pass.

For the committee,

A. JOSEPH DeNUCCI.

**The Commonwealth of Massachusetts**

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

## AN ACT FURTHER DEFINING MENTAL ILLNESS.

*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 7 of Chapter 4 of the General Laws, as  
2 most recently appearing in the Tercentenary Edition, is hereby  
3 further amended by striking out the definition of "Insane Person"  
4 and "Lunatic" as appearing in paragraph fifteen.

1 SECTION 2. Section 4 of Chapter 10 of the General Laws, as  
2 so appearing in the Tercentenary Edition, is hereby amended by  
3 striking out of line one the word: — "insane", and inserting in  
4 place thereof the following section: — "incapacitated by reason  
5 of mental illness".

1 SECTION 3. Section 17 of Chapter 10, of the General Laws,  
2 as so appearing in the Tercentenary Edition, is hereby further  
3 amended by striking out of line three the following: — "insane,  
4 feeble-minded, and epileptic", and inserting in place thereof the  
5 following words: — "mentally ill or developmentally disabled".

1 SECTION 4. Section 96 of Chapter 60 of the General Laws,  
2 as appearing in the Tercentenary Edition, is hereby amended by  
3 striking out of line one the word: — "insane", and inserting in  
4 place thereof the following: — "incapacitated by reason of mental  
5 illness."

1 SECTION 5. Section 24 of Chapter 109 of the General Laws  
2 is hereby further amended by striking out of line 10 the word: —  
3 "insane", and inserting in place thereof the following: —  
4 "incapacitated by reason of mental illness".

1 SECTION 6. Section 61 of Chapter 112 of the General Laws

2 is hereby amended by striking out the word: — “insane”, and  
3 inserting in place thereof the following: — “incapacitated by  
4 reason of mental illness”.

1 SECTION 7. Section 2 of Chapter 118 of the General Laws  
2 is hereby amended by striking out of paragraph two, line seven  
3 the word: — “insane persons”, and inserting in place thereof the  
4 following: — “mentally ill person”.

1 SECTION 8. Section 14 of Chapter 120 of the General Laws,  
2 as most recently amended by section 44 of Chapter 838 of the Acts  
3 of 1969, is hereby further amended by striking out of line 2 the  
4 words: — “insane or feeble-minded” and inserting in place thereof  
5 the words: — “mentally ill or developmentally disabled”.

1 SECTION 9. Section 14 of Chapter 120 of the General Laws, as  
2 most recently amended by section 44 of Chapter 838 of the Acts  
3 of 1969, is hereby further amended by striking out of line the  
4 words: — “sexual psychopath” and inserting in place thereof the  
5 words: — “sexually dangerous person”.

1 SECTION 10. Section 68 of Chapter 151A of the General  
2 Laws is hereby amended by striking out of line 33 the word: —  
3 “weakness” and inserting in place thereof the word: — “illness”.

1 SECTION 11. Section 39 of Chapter 152 of the General Laws  
2 is hereby amended by striking out of line 11 the words: — “or  
3 is insane”.

1 SECTION 12. Section 14 of Chapter 189 of the General Laws  
2 is hereby further amended by striking out of line eight the word: —  
3 “insane”, and inserting in place thereof the following: —  
4 “incapacitated by reason of mental illness”.

1 SECTION 13. Section 12 of Chapter 202 of the General Laws,  
2 as most recently amended by section 30 of Chapter 261 of the Acts  
3 of 1974, is hereby further amended by striking out of line three  
4 the following words: — “an insane person”, and inserting in place  
5 thereof the following: — “a person who is incapacitated by reason  
6 of mental illness”.

1 SECTION 14. Section 12 of Chapter 202 of the General Laws,  
2 as most recently amended by section 30 of Chapter 261 of the  
3 Acts of 1974, is hereby further amended by striking out of line  
4 six the words: — “an insane person”, and inserting in place thereof  
5 the following words: — “a person incapacitated by reason of  
6 mental illness”.

1 SECTION 15. Section 12 of Chapter 203 of the General Laws,  
2 as most recently appearing in section 3 of Chapter 478 of the Acts  
3 of 1954, is hereby further amended by striking out of line six the  
4 following: — “insane”, and inserting in place thereof the  
5 following: — “incapacitated by reason of mental illness”.

1 SECTION 16. Section 18 of Chapter 203 of the General Laws,  
2 as appearing in the Tercentenary Edition, is hereby amended by  
3 striking out of line three the following: — “insane”, and inserting  
4 in place thereof the following: — “incapacitated by reason of  
5 mental illness”.

1 SECTION 17. Section five of Chapter two hundred and seven  
2 of the General Laws is hereby repealed.

1 SECTION 18. Section 25 of Chapter 207 of the General Laws,  
2 as most recently appearing in Chapter 212 of the Acts of 1931,  
3 is hereby further amended by striking out of line eleven the  
4 following: — “insane”, and inserting in place thereof the  
5 following: — “incapacitated by reason of mental illness”.

1 SECTION 19. Section 15 of Chapter 208 of the General Laws,  
2 as most recently amended by Section 19 of Chapter 400 of the  
3 Acts of 1975, is hereby further amended by striking out of line  
4 2 the following: — “insane”, and inserting in place thereof the  
5 following: — “incapacitated by reason of mental illness”.

1 SECTION 20. Chapter 209 of the General Laws, as most  
2 recently amended in section 17 of Chapter 423 of the Acts of 1971,  
3 is hereby further amended by striking out section 18, and inserting  
4 in place thereof the following section: —

5     *Section 18.* The spouse of a person incapacitated by reason of  
6 mental illness desiring to convey said person's real estate  
7 absolutely or by mortgage may file a petition in the probate court  
8 describing such real estate and praying that homestead therein  
9 may be released and stating the facts and reasons why the prayer  
10 of the petition should be granted, the court may, after notice and  
11 a hearing, by a decree authorize the guardian of the person  
12 incapacitated by reason of mental illness to make the release by  
13 joining in any deed or deeds, mortgage or mortgages of the whole  
14 or a part of said real estate which is or are made within five years  
15 after said decree by the spouse of the person incapacitated by  
16 reason of mental illness or by a trustee for such spouse.

1     SECTION 21. Chapter 209 of the General Laws, as most  
2 recently amended by section 3 of Chapter 392 of the Acts of 1978,  
3 is hereby further amended by striking out section 21, and inserting  
4 in place thereof the following section: —

5     *Section 21.* If the guardian of a spouse that is incapacitated by  
6 reason of mental illness, is authorized under section 18 to release  
7 an estate of homestead and the probate court finds that a portion  
8 of the proceeds of the real estate sold, or of an amount loaded  
9 on mortgage thereof, must be reserved for the use of the ward,  
10 it must order that a portion, equal to 50 per cent of the proceeds,  
11 to be set aside and paid over to such guardian to be invested in  
12 a homestead and held by the guardian for the benefit of said  
13 person's ward, if the spouse survives said spouse, the rent or use  
14 thereof to be received and enjoyed during the life of the spouse  
15 incapacitated by reason of mental illness, or until otherwise  
16 ordered by the court for cause, and the homestead to be said  
17 spouse's and conveyed to said spouse by said guardian, if said  
18 spouse survives the spouse incapacitated by reason of mental  
19 illness.

1     SECTION 22. If the guardian of a spouse that is incapacitated  
2 by reason of mental illness, is authorized under section 18 to  
3 release an estate of homestead and the probate court finds that  
4 a portion of the proceeds of the real estate sold, or of an amount  
5 loaded on mortgage thereof, must be reserved for the use of the  
6 ward, it must order that a portion, equal to 50 per cent of the

7 proceeds, to be set aside and paid over to such guardian to be  
8 invested in a homestead and held by the guardian for the benefit  
9 of said person's ward, if the spouse survives said spouse, the rent  
10 or use thereof to be received and enjoyed during the life of the  
11 spouse incapacitated by reason of mental illness, or until otherwise  
12 ordered by the court for cause, and the homestead to be said  
13 spouse's and conveyed to said spouse by said guardian, if said  
14 spouse survives the spouse incapacitated by reason of mental  
15 illness.

1 SECTION 23. Said Chapter 209 of the General Laws, is hereby  
2 further amended by striking out section 19, as most recently  
3 appearing in Chapter 423 of the Acts of 1971, and inserting in  
4 place thereof the following section: —

5 *Section 24.* Proceedings under sections 18 and 21, if the spouse  
6 of such a person who is incapacitated by reason of mental illness,  
7 is an inhabitant of this Commonwealth, be in the county where  
8 said spouse resides, otherwise in a county where any of said  
9 person's real estate is situated, and a certified copy of all final  
10 orders or decrees in such proceedings shall be recorded in the  
11 registry of deeds in every county or district where such real estate  
12 lies.

1 SECTION 24. Chapter 209 of the General Laws is hereby  
2 further amended by striking out section 36, as so appearing in  
3 section 50 of chapter 400 of the Acts of 1975, and inserting in place  
4 thereof the following section: —

5 *Section 36.* A probate court may upon complaint of a spouse,  
6 or if said person is incapacitated by reason of mental illness, of  
7 said person's guardian or next of friend, engage a judgment that  
8 said person has been deserted by said person's spouse or that said  
9 person is living apart from their spouse for justifiable cause, and  
10 said person may thereafter convey said person's real estate in the  
11 same manner and with the same effect as if said person were sole,  
12 and the surviving spouse shall not be entitled under section 15  
13 of Chapter 191 to waive the provisions of a will made to said  
14 person's estate or to claim such portion of said person's estate as  
15 the spouse would take if said spouse had not died intestate, nor  
16 shall the spouse be entitled upon said person's death, if said person

17 leaves a will, to dower in said person's estate, as provided in section  
18 one of chapter one hundred and eighty-nine. Section seventeen  
19 of chapter two hundred and eight shall apply to proceedings upon  
20 such complaint, so far as applicable.

1 SECTION 25. Section 40 of Chapter 218 of the General Laws,  
2 as most recently amended in section 1 of Chapter 862 of the Acts  
3 of 1975, is hereby further amended by striking out of line 6 the  
4 following: — "insane", and inserting in place thereof the  
5 following: — "mentally ill".

1 SECTION 26. Section 1 of Chapter 234 of the General Laws,  
2 as most recently amended by section 265 of Chapter 478 of the  
3 Acts of 1978, is further amended by striking out of paragraph two,  
4 line 13 the following word: — "insane", and inserting in place  
5 thereof the following: — "psychiatric".

1 SECTION 27. Section 25 of Chapter 260 of the General Laws,  
2 as most recently amended by section 1 of Chapter 269 of the Acts  
3 of 1959, is hereby further amended by striking out of line 2 the  
4 following: — "insane", and inserting in place thereof the  
5 following: — "incapacitated by reason of mental illness".

1 SECTION 28. Section 7 of Chapter 260 of the General Laws,  
2 as appearing in the Tercentenary Edition, is hereby amended by  
3 striking out of line two the following words: — "insane", and  
4 inserting in place thereof the following: — "incapacitated by  
5 reason of mental illness".

1 SECTION 29. Section 50 of Chapter 262 of the General Laws,  
2 as most recently amended by section 274 of Chapter 478 of the  
3 acts of 1978, is hereby further amended by striking out the  
4 word: — "insane", and inserting in place thereof the following: —  
5 "mentally ill".

1 SECTION 30. Section 123 of Chapter 266 of the General  
2 Laws, as most recently amended by Chapter 362 of the Acts of  
3 1969, is hereby further amended by striking out of lines seven and  
4 eight the following: — "insane, feeble minded or epileptic", and

5 inserting in place thereof the following: — “mentally ill and  
6 developmentally disabled”.

1 SECTION 31. Section five of Chapter two hundred and  
2 seventy-two of the General Laws, as most recently appearing in  
3 chapter five hundred and eighty-eight of the Acts of nineteen  
4 hundred and seventy-seven, is hereby repealed.

1 SECTION 32. Section 33 of Chapter 272 of the General Laws,  
2 as most recently amended by Chapter 55 of the Acts of 1971, is  
3 hereby further amended by striking out of line 2 the words: —  
4 “insane person”, and inserting in place thereof the following: —  
5 “incapacitated by reason of mental illness”.