

# HOUSE . . . . . No. 2356

By Mr. Voke of Chelsea, petition of Richard A. Voke, Kenneth M. Lemanski, Elizabeth N. Metayer, Mary Jane McKenna and Stephen J. Karol relative to the involuntary commitment of certain persons suffering from mental disorders. Human Services and Elderly Affairs..

## The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO THE INVOLUNTARY COMMITMENT OF CERTAIN PEOPLE.

*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 12 of chapter 123 of the General Laws, as most recently  
2 amended by section 614 of the acts of 1982, is hereby further  
3 amended by striking said section and inserting in place thereof the  
4 following: —

5 Any physician who is licensed pursuant to section two of chapter  
6 112 or a qualified psychologist licensed pursuant to sections one  
7 hundred and eighteen to one hundred and twenty-nine, inclusive,  
8 of chapter 112, may, upon probable cause, restrain or authorize the  
9 restraint of a person who, as a result of mental disorder, is a danger  
10 to others, or to himself. Such physician or psychologist shall apply  
11 for the hospitalization of said person at a public facility or private  
12 facility authorized for such purposes by the department.

13 If an evaluation is not possible because of the emergency nature  
14 of the case and because of the refusal of the person to consent to  
15 such evaluation, the physician or qualified psychologist, on the  
16 basis of the facts and circumstances, may determine that hospitali-  
17 zation is necessary and may apply therefor. In the event that any  
18 person, as a result of mental disorder, is a danger to others, or to  
19 himself, or gravely disabled, and a physician or qualified psycholo-

20 gist is not available, a police officer, upon probable cause may  
21 restrain said person and apply for the hospitalization of said person  
22 at a public facility or a private facility authorized for such purpose  
23 by the department. An application for hospitalization shall state  
24 the reasons for the restraint of said person and any other relevant  
25 information which may assist the admitting physician or physi-  
26 cians. Prior to transporting said person, the applicant shall tele-  
27 phone or otherwise communicate with a facility to describe the  
28 circumstances and known clinical history and to determine whether  
29 the facility is the appropriate facility to receive said person and also  
30 to give notice of any restraint to be used and to determine whether  
31 such restraint is necessary.

32 And provided further, that in no instance shall a person be  
33 restrained in a private or public facility for a period greater than 48  
34 hours, unless said facility has made application to the superior  
35 court in the county where the facility is located. Upon application,  
36 the court shall either release the person or order an evidentiary  
37 hearing to be held within two judicial days after the petition is filed.  
38 If the court finds, that the person requesting release is not, as a  
39 result of mental disorder or impairment by chronic alcoholism, a  
40 danger to others, or to himself, or gravely disabled, or that he had  
41 not been advised of, or had accepted, voluntary treatment, or that  
42 the facility providing treatment is not equipped and staffed to  
43 provide treatment, or is not designated by the department to pro-  
44 vide appropriate treatment, he shall be released immediately.

45 Only if the application for hospitalization under the provisions  
46 of this section is made by a physician specifically designated to have  
47 the authority to admit to a facility in accordance with the regula-  
48 tions of the department shall said person be admitted to the facility  
49 immediately after his reception. If the application is made by  
50 someone other than a designated physician, such person, whose  
51 mental disorder is in question, shall be given a psychiatric evalua-  
52 tion by a designated physician immediately after his reception at  
53 such facility. If the physician determines, that such person as a  
54 result of mental disorder, is a danger to others, or to himself, or  
55 gravely disabled, then he may upon probable cause, admit such  
56 person to the facility of care and treatment.

57 No person shall be admitted to a facility under the provisions of

58 this section unless he, or his parent or legal guardian in his behalf, is  
59 given an opportunity to apply for voluntary admission under the  
60 provisions of paragraph A of § 10 and unless he, or such parent or  
61 legal guardian has been informed (1) that he has a right to such  
62 voluntary admission, and (2) that the period of hospitalization  
63 under the provisions of this section cannot exceed ten days. At any  
64 time during such period of hospitalization, the superintendent may  
65 discharge such person if he determines that such person is not in  
66 need of care and treatment.

67 A person shall be discharged at the end of the ten-day period  
68 unless the superintendent applies for a commitment under the  
69 provisions of sections seven and eight of this chapter or the person  
70 remains on a voluntary status.

71 Any person may make an application to a district court justice  
72 for a 48 hour evaluation (or a ten day commitment to a facility) of  
73 a mentally ill person, upon probable cause in the event that said  
74 person is a danger to others, or to himself, or gravely disabled.  
75 After hearing such evidence as he may consider sufficient a district  
76 court justice may issue a warrant for the apprehension and appear-  
77 ance before him of the alleged mentally ill person, if in his judgment  
78 the condition or conduct of such person makes such action neces-  
79 sary or proper. Following apprehension, the court shall have the  
80 person evaluated by a physician designated to have the authority to  
81 admit to a facility in accordance with the regulations of the  
82 department. If said physician reports such person, as a result of  
83 mental disorder, is a danger to others, or to himself, or gravely  
84 disabled, the court may upon reasonable cause, order the person  
85 committed to a facility for a period not to exceed ten days, and  
86 subject to judicial review after a 48 hour period, but the superin-  
87 tendent may discharge him at any time within the ten-day period.

The following is a list of the names of the persons who were members of the committee on the subject of the proposed amendment to the constitution of the State of New York, as passed by the Senate on the 15th day of January, 1900, and by the Assembly on the 15th day of February, 1900, and which was adopted by the people at the general election held on the 15th day of November, 1900.

The names of the members of the committee are as follows:

Chairman: [Name]

Members: [List of names]

The committee has the honor to acknowledge the assistance of the following persons in the preparation of this report:

[List of names]

The committee also wishes to express its appreciation to the following persons for their generous contributions to the cause of the proposed amendment:

[List of names]

The committee believes that the proposed amendment is in the best interests of the State, and recommends its adoption by the people.