

# SENATE . . . . No. 311.

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## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Seventy.

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### AN ACT

In relation to the Discharge of Persons confined as  
Insane, and for other purposes.

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

1    SECT. 1.   The trustees, or any two of the trustees  
2 of either of the state lunatic hospitals, on application  
3 in writing, or of their own motion, or the judge of  
4 the probate court for any county on such application,  
5 may discharge any person confined therein if it  
6 appears that such person is not insane, or if insane  
7 will be sufficiently provided for by himself, his guar-  
8 dian, his relatives, his friends or the city or town  
9 liable for his support, or that his confinement therein  
10 is not longer necessary for the safety of the public  
11 nor his own welfare.

1   SECT. 2. The trustees or any two of them may  
2 also remove any person confined therein to the city  
3 or town in which the judge or court committing him  
4 certified that he resided at the time of the confine-  
5 ment, when in their opinion he ceases to be danger-  
6 ous, and is not susceptible of mental improvement at  
7 the hospital, if such city or town does not remove  
8 him after reasonable notice in writing.

1   SECT. 3. Any person may, in writing, make appli-  
2 cation to a judge of the supreme judicial court at any  
3 time and in any county, setting forth that he believes  
4 or has reason to believe that a person therein named  
5 is confined as an insane person in a lunatic hospital  
6 or other place for the treatment or custody of insane  
7 persons, whether a public or private institution, and  
8 ought not longer to be so confined, stating also the  
9 names of all persons supposed to be interested in  
10 keeping him in confinement, and requesting his  
11 discharge.

1   SECT. 4. The judge shall order notice of the time  
2 and place of hearing on said application to be given  
3 to the superintendent in charge of the hospital, or  
4 place of confinement and to such other persons as he  
5 deems proper, and the hearing shall be had as sum-  
6 marily as conveniently may be before the same or  
7 any other judge of the supreme judicial court in any  
8 county. The alleged insane person shall be brought  
9 before the judge at the hearing upon a writ of habeas  
10 corpus if any party so requests or the judge deems it  
11 proper, and an issue or issues shall be framed and sub-  
12 mitted to a jury by direction of the judge or on the

13 request of any person who appears in the case. The  
14 jurors may be those in attendance on said court, if in  
15 session at the time of the hearing, or may be sum-  
16 moned for the special purpose on venires issued by  
17 the clerk of said court upon the order of the judge  
18 substantially in accordance with the provisions of  
19 chapter one hundred and thirty-two of the General  
20 Statutes.

1     SECT. 5. If it appears upon the findings of the  
2 jury or in the opinion of the judge, if not submitted  
3 to a jury, that the person so confined is not insane, or  
4 if insane that he will be sufficiently provided for else-  
5 where by himself, his guardian, his relatives, his  
6 friends or the town or city liable for his support,  
7 or that his confinement is not longer necessary for the  
8 safety of the public nor his own welfare, he shall be  
9 discharged from such confinement.

1     SECT. 6. Upon complaint of any person confined  
2 in any lunatic hospital or other place for the treat-  
3 ment or custody of insane persons, public or private,  
4 or of any other person in his behalf to the general  
5 agent of the board of state charities that such person  
6 ought not longer to be so confined, the agent shall  
7 investigate the case, make report thereof to said board,  
8 and if they so direct, shall make application for the  
9 discharge of the person so confined to a judge of the  
10 supreme judicial court as provided in section three of  
11 this act. And any district-attorney upon request of  
12 the agent shall aid him and conduct the proceedings  
13 in his behalf.

1     SECT. 7. No adult idiotic or insane person con-  
2 fined in any asylum in this Commonwealth shall be

3 wholly under the guardianship of persons having an  
4 interest in his estate.

1 SECT. 8. Judges of probate in visiting the lunatic  
2 asylums, shall have a free access to any and every  
3 building, ward room, or dormitory, or inclosure con-  
4 nected with the same, and shall have authority to  
5 converse with, or examine any officer, attendant or  
6 inmate, either in private or public.

1 SECT. 9. Section twenty-nine of chapter seventy-  
2 three of the General Statutes, sections fourteen and  
3 fifteen of chapter two hundred and twenty-three of  
4 the acts of eighteen hundred and sixty-two, and sec-  
5 tions one, two, three, four and five of chapter two  
6 hundred and eighty-eight of the acts of eighteen hun-  
7 dred and sixty-four are hereby repealed.

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HOUSE OF REPRESENTATIVES, June 10, 1870.

Passed to be engrossed.

Sent up for concurrence.

W. S. ROBINSON, *Clerk.*