

By Mr. Flaherty of Boston, petition of Michael F. Flaherty relative to certain powers of the Juvenile Court Department. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT RELATIVE TO CERTAIN POWERS OF THE JUVENILE COURT DEPARTMENT.

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 71A of chapter 367 of the acts of
3 1978, is hereby further amended by inserting after the fourth
4 paragraph the following:—"Juvenile Division," the juvenile
5 court or juvenile session of the district court within the jurisdiction
6 of which a facility is located.

1 SECTION 2. Paragraph (a) of Section 7 of said chapter 123, as
2 most recently amended by section 71C of chapter 367 of the acts of
3 1978, is hereby further amended by inserting the phrase "district
4 court" in the first line the following words:—"Juvenile court of
5 juvenile session of the district court."

1 SECTION 3. Paragraph (b) of said section 7 of said chapter 123
2 is hereby amended by inserting after the words, "Bridgewater state
3 hospital of any" in the first sentence the following word:—adult.

1 SECTION 4. Said chapter 123 is hereby further amended by
2 striking section 8, as most recently amended by section 69 of
3 chapter 478 of the acts of 1978 and inserting in place thereof the
4 following:—

5 Section 8. (a) After a hearing, unless such hearing is waived in
6 writing, the district court, juvenile court or juvenile session of a

7 district court shall not order the commitment of a person at a
8 facility or shall not renew such order unless it finds after a hearing
9 that (1) such person is mentally ill, and (2) the discharge of such
10 person from a facility would create a likelihood of serious harm.

11 (b) After a hearing, unless such hearing is waived in writing, the
12 district court shall not order the commitment of an adult person at
13 the Bridgewater state hospital or shall not renew such order unless
14 it finds that (1) such adult person is mentally ill; (2) such adult
15 person is not a proper subject for commitment to any facility of the
16 department; and (3) the failure to retain such adult person in strict
17 custody would create a likelihood of serious harm. If the court is
18 unable to make the findings required by this paragraph, but makes
19 the findings required by paragraph (a), the court shall order the
20 commitment of the person to a facility designated by the depart-
21 ment.

22 (c) The court shall render its decision on the petition within ten
23 days of the completion of the hearing, provided, that for reasons
24 stated in writing by the court, the administrative justice for the
25 district court department or the administrative justice of the juve-
26 nile court department, when a juvenile is the subject of the petition,
27 may extend said ten-day period.

28 (d) The first order of commitment of a person under this section
29 shall be valid for a period of six months and all subsequent com-
30 mitments shall be valid for a period of one year; provided that if
31 such commitments occur at the expiration of a commitment under
32 any other section of this chapter, other than a commitment for
33 observation, the first order of commitment shall be valid for a
34 period of one year; and provided further, that the first order of
35 commitment to the Bridgewater state hospital of an adult person
36 under commitment to a facility shall be valid for a period of six
37 months. If no hearing is held before the expiration of the six
38 months' commitment, the court may not recommit the adult per-
39 son without a hearing.

40 (e) In the event that the hearing is waived and on the basis of a
41 petition filed under the authority of this chapter showing that a
42 person is mentally ill and that the discharge of the person from a
43 facility would create a likelihood of serious harm, the district court,
44 juvenile court or juvenile session of a district court which has

45 jurisdiction over a facility may order the commitment of the person
46 to such facility.

47 (f) In the event that the hearing is waived and on the basis of a
48 petition filed under the authority of this chapter showing that an
49 adult person is mentally ill, that the adult person is not a proper
50 subject for commitment to any facility of the department and that
51 the failure to retain said adult person in strict security would create
52 a likelihood of serious harm, the district court which has jurisdic-
53 tion over a facility, if a person is retained in a facility, or the
54 Brockton district court, if an adult person is retained in the Bridge-
55 water state hospital, may order the commitment of the adult
56 person to said hospital.

1 SECTION 5. Paragraph (e) of section 8A of said chapter 123,
2 as most recently amended by section 71D of chapter 367 of the acts
3 of 1978, is hereby further amended by adding the following sen-
4 tence: — “Whenever used in this section, woman shall mean an
5 adult woman and in no event shall a juvenile be committed to the
6 I.C.U.”

1 SECTION 6. Paragraph (a) of section 9 of said chapter 123, as
2 most recently amended by section 71E of chapter 367 of the acts of
3 1978, is hereby further amended by adding the following sen-
4 tence: — Such matters of law arising in a juvenile court or a
5 juvenile session of a district court may be reviewed in the same
6 manner as those matters appealed under the provision of section
7 fifty-six of chapter one-hundred nineteen.

1 SECTION 7. Paragraph (e) of section 12 of said chapter 123, as
2 most recently amended by section 2 of chapter 114 of the acts of
3 1975, is hereby further amended by striking out the first sentence
4 and inserting in place thereof the following: — Any person may
5 make application to a justice of the district court for a ten-day
6 commitment to a facility of a mentally ill person, whom the failure
7 to confine would cause a likelihood of serious harm.

1 SECTION 8. Section 13 of said chapter 123, as most recently
2 amended by section 11 of chapter 760 of the acts of 1971, is hereby

3 further amended by striking the word "male" in the first sentence
4 and inserting in place thereof the following: adult male.

1 SECTION 9. Paragraph (a) of section 15 of said chapter 123, as
2 most recently amended by section 70 of chapter 478 of the acts of
3 1978, is hereby further amended by striking the phrase "criminal
4 case" in the first sentence and inserting in place thereof the follow-
5 ing: — criminal or delinquency case.

1 SECTION 10. Paragraph (b) of said section 15 of said chapter
2 123 is hereby amended by striking the phrase "a male" in the first
3 sentence and inserting in place thereof the following: — an adult
4 male.

1 SECTION 11. Paragraph (e) of said section 15 of said chapter
2 123 is hereby amended by striking out the phrase "a male" in the
3 first sentence and inserting in place thereof the following: — an
4 adult male.

1 SECTION 12. Said paragraph (e) of said section 15 of said
2 chapter 123 is hereby further amended by striking out the last
3 sentence and inserting in place thereof the following: — All subse-
4 quent proceedings for commitment shall take place under the
5 provisions of sections seven and eight in the district court, juvenile
6 court, or juvenile session of the district court which has jurisdiction
7 of the facility or hospital. In no event shall a juvenile be committed
8 to Bridgewater state hospital.

1 SECTION 13. Paragraph (a) of section 16 of said chapter 123
2 of the General Laws, as most recently amended by sections 10 to 12
3 of chapter 569 of the acts of 1973, is hereby further amended by
4 inserting after the word "criminal" in the first line the following: —
5 or delinquency.

1 SECTION 14. Paragraph (b) of said section 16 of said chapter
2 123 is hereby amended by striking out the words "criminal case for
3 the commitment of the person to a facility or to Bridgewater state
4 hospital" in the first sentence and inserting in place thereof the

5 following: — criminal or delinquency case for the commitment of
6 the person to a facility or, in the case of an adult male, to Bridge-
7 water state hospital.

1 SECTION 15. Said Paragraph (b) of said section 16 of said
2 chapter 123 is hereby further amended by inserting after the word
3 “criminal” in the second sentence the following: — or delinquency.

1 SECTION 16. Said Paragraph (b) of said section 16 of said
2 chapter 123 is hereby further amended by inserting after the phrase
3 “Bridgewater state hospital” in the third sentence the following: —
4 if he is an adult male.

1 SECTION 17. Said Paragraph (b) of said section 16 of said
2 chapter 123 is hereby further amended by inserting the following
3 sentence: In no event shall a juvenile be committed to Bridgewater
4 state hospital.

1 SECTION 18. Paragraph (c) of said section 16 of said chapter
2 123 is hereby amended by striking out the second sentence and
3 inserting in place thereof the following sentence: — If the person is
4 not found incompetent, the court shall notify the court with juris-
5 diction of the criminal or delinquency charges, which court shall
6 thereupon order the defendant returned to its custody for the
7 resumption of criminal or delinquency proceedings.

1 SECTION 19. Paragraph (c) of said section 16 of said chapter
2 123 is hereby amended by inserting after the word “criminal” in the
3 fourth sentence the following: — or delinquency.

1 SECTION 20. Paragraph (a) of section 18 of said chapter 123,
2 as most recently amended by section 14 of chapter 569 of the acts of
3 1973, is hereby further amended by inserting after the phrase
4 “district court” in the second sentence the following: — juvenile
5 court or juvenile session of the district court.

1 SECTION 21. Said Paragraph (a) of said section 18 of said
2 chapter 123 is hereby further amended by striking the phrase “a
3 male” in the fourth and sixth sentences and inserting in place
4 thereof the following: — an adult male.

