

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Dowd

SENATE BILL 172

"AN ACT TO REVISE THE LAWS RELATING TO VOLUNTARY ADMISSIONS
AND INVOLUNTARY COMMITMENTS OF MENTALLY ILL PERSONS; AND FOR
OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Definitions. For the purpose of this Act, the following definitions shall apply:

(a) "Homicidal" refers to a person who has a mental illness, disease or disorder and as a result of the mental illness, disease or disorder poses a significant risk of physical harm to others as manifested by recent overt behavior evidencing homicidal or other violent assaultive tendencies.

(b) "Suicidal" refers to a person who has a mental illness, disease or disorder and as a result of the mental illness, disease or disorder poses a substantial risk of physical harm to himself as manifested by evidence of, threats of, or attempts at suicide or serious self-inflicted bodily harm or by evidence of other behavior or thoughts that create a grave and imminent risk to his physical condition.

(c) "Gravely disabled" refers to a person who is likely to injure himself or others if allowed to remain at liberty or is unable to provide for his own food, clothes, or shelter by reason of mental illness, disease, or disorder.

(d) "Mental illness" refers to a substantial impairment of emotional processes, or of the ability to exercise conscious control of one's actions, or the ability to perceive reality or to reason, when the impairment is manifested by instances of extremely abnormal behavior or extremely faulty perceptions. It does not include impairment solely caused by: (a) epilepsy; (b) mental retardation; (c) continuous or noncontinuous periods of intoxication caused by substances such as alcohol or drugs; or (d) dependence upon or

addiction to any substance such as alcohol or drugs.

(e) "Least Restrictive Appropriate Setting" for treatment refers to the available treatment setting which provides the person with the highest likelihood of improvement or cure and which is no more restrictive of the person's physical or social liberties than is necessary for the most effective treatment of the person and for adequate protection against any dangers which the person poses to himself or others.

(f) "Hospital" refers to the University of Arkansas for Medical Sciences Hospital, the Veterans Administration Hospitals or any private hospital with a fully trained psychiatrist on the active or consultant staff.

(g) "State Mental Health System" refers to the Little Rock State Hospital, Greater Little Rock Community Mental Health Center, George W. Jackson Community Mental Health Center and Hospital in Jonesboro, and any other facility or program certified by the Division of Mental Health Services of the Department of Human Services.

(h) "Division" refers to the Division of Mental Health Services of the Department of Human Services.

(i) "Community Mental Health Center" refers to a program and its affiliates established and administered by the state, or a private, nonprofit corporation certified by the Division of Mental Health Services for the purpose of providing mental health services to the residents of a defined geographic area and which minimally provides 24-hour emergency, inpatient, outpatient, consultation, education, prevention, partial care, follow-up and aftercare, and initial screening and precare services. The Division may contract with a community mental health center for the operation and administration of any services which are part of the state mental health system.

(j) "Receiving Facility or Program" refers to an inpatient or outpatient treatment facility or program which is designated within each geographic area of the state by the Deputy Director for the Division of Mental Health Services of the Department of Human Services, to accept the responsibility for care, custody, and treatment of persons involuntarily committed to the state mental health system.

(k) "Administrator" refers to the chief administrative officer or executive director of any private or public facility or of any community mental health center certified by the Division of Mental Health Services.

(l) "Deputy Director" refers to the chief executive officer for the Divi-

sion of Mental Health Services of the Department of Human Services.

(m) "Treatment" refers to those psychological, educational, social, chemical, medical, somatic, or other techniques designed to bring about rehabilitation of persons with mental illness. Treatment may be provided in inpatient and outpatient settings.

(n) "Treatment Plan" refers to an individualized written document which includes the following: (1) a substantiated diagnosis in the terminology of the American Psychiatric Association's Diagnostic and Statistical Manual; (2) short-term and long-term treatment goals; (3) treatment programs, facilities and activities to be utilized to achieve the treatment goals; and (4) methods for periodic review and revision of the treatment plan.

(o) "Psychosurgery" refers to those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain; or

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, actions or behavior; or

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause of those thoughts, feelings, actions or behavior.

(p) "Detention" refers to any confinement of a person against his wishes and begins either:

(1) When a person is involuntarily brought to a receiving facility or program or to a hospital; or

(2) When pursuant to Section 5(a) the person appears for the initial hearing; or

(3) When a person on a voluntary status in a receiving facility or program or a hospital requests to leave pursuant to Section 3(c) of this Act.

SECTION 2. Jurisdiction of Probate Court

(a) The probate courts of this State shall have exclusive jurisdiction of the involuntary commitment procedures initiated pursuant to this Act except that the juvenile court shall have concurrent jurisdiction to commit persons under eighteen (18) years of age to the extent provided by this section.

(b) The Probate Judge, or referee, who hears an original petition as defined in Section 4 of this Act, at the initial hearing as defined in Section 5(a)(1) of this Act, shall conduct, within seven (7) days (excluding weekends and holidays) of the person's detention, the hearing as defined in Section 9 of this Act. Except as otherwise provided, the hearing, as defined by Section 9 of this Act, shall be conducted by the same judge, or another judge designated on exchange, who heard the original petition and issued the appropriate order or by a referee appointed as provided in subparagraph (c). The judge or referee shall insure that the person sought to be committed is afforded all his rights as prescribed by this Act.

(c) The Probate Judge may designate and appoint a referee, who if so designated, shall hear the original petition as defined in Section 4 of this Act, issue an appropriate order pursuant to Section 5 of this Act, and shall conduct, within seven (7) days (excluding weekends and holidays) of the person's detention, the hearing as defined in Section 9 of this Act. The hearings conducted as pursuant to Sections 5 and 9 may be held at the Arkansas State Hospital or a receiving facility or program where the person is detained. The referee shall insure that the person sought to be committed is afforded all his rights as described in this Act.

(d) The person designated and appointed to be a referee shall be a licensed attorney in the State of Arkansas. No person designated and appointed to be a referee under the provisions of this Act shall be disqualified because he is a presiding municipal judge within the judicial district of the probate judge making said designation and appointment.

(e) Appeals from the decision of the referee may be taken as a matter of right to the probate court in the county in which the case was filed. Written notification of the appeal shall be made to the clerk of the probate court in the county in which the case was decided within seventy-two (72) hours, excluding weekends and holidays, following the decision of the referee. Upon request, the clerk shall cause to be transmitted to the probate judge all records pertaining to the case. A trial de novo shall be conducted by the probate judge of the county in which the case was decided within seven (7) days of the filing of the notice of appeal. The trial de novo shall comply with all procedures outlined in this Act.

(f) The probate judge, when conducting any hearing set out in this Act, may conduct said hearing within any county of his judicial district.

SECTION 3. Voluntary Admissions. The following shall apply to voluntary admissions of persons with a mental illness, disease, or disorder:

(a) Any person who believes himself to have a mental illness, disease, or disorder may apply to the Administrator or his designee of a hospital or to the Administrator or his designee of a receiving facility or program to which admission is requested. If the Administrator or his designee of the hospital or the Administrator or his designee of a receiving facility or program shall be satisfied after examination of the applicant that he is in need of mental health treatment and will be benefited thereby, he may receive and care for the applicant in the hospital or receiving facility or program for such a period of time as he shall deem necessary for the recovery and improvement of said person, provided that said person agrees at all times to remain in the hospital or receiving facility or program.

(b) If at any time the person who has voluntarily admitted himself to the hospital or receiving facility or program makes a request to leave, and the Administrator or his designee determines that the person is at that time homicidal, suicidal, or gravely disabled, then the person shall be considered to be held by detention and the commitment procedures set forth herein shall apply.

(c) Any person requesting to leave under the preceding Section shall, within one (1) hour of his request to any hospital or receiving facility or program employee, in an administrative or treatment capacity, be provided with a written statement advising him of all rights delineated in Section 8 of this Act. The person shall further be provided with an acknowledgment, confirming that he has been advised of the aforesaid rights. If the person refuses to sign the acknowledgment, this refusal shall be noted in the person's chart, and shall be attested to by two (2) eye witnesses on a separate document. An original of said attestation shall be furnished to the court. For the purposes of computing the initial period of evaluation and treatment referred to in Section 2 of this Act, detention begins upon the signing of the acknowledgment by the person or, in the event that the person refuses to sign the acknowledgment, upon the attestation of said refusal by two (2) eye witnesses.

(d) A person voluntarily admitted who absents himself from a hospital or receiving facility or program as defined in the Act, may be placed on elopement status and a pick-up order issued if, in the opinion of the treatment

staff, the person is homicidal, suicidal, or gravely disabled as defined in Section 1 of this Act. Upon return to the hospital or receiving facility or program this individual shall be held under detention as defined in Section 1(g) of this Act.

SECTION 4. Involuntary Commitment - Original Petition.

(a) Written Petition - Venue. Any person having reason to believe that a person is homicidal, suicidal or gravely disabled as defined by this Act may file a verified petition with the Clerk of the Probate Court of the county in which the person alleged to have mental illness resides or is initially detained.

(b) Contents of Petition. The petition for involuntary commitment shall:

(1) State whether the person is believed to be homicidal, suicidal or gravely disabled as defined in Section 1 of this Act.

(2) Describe the conduct, clinical signs and symptoms, upon which the petition is based. Such description shall be limited to facts within the petitioner's personal knowledge.

(3) Contain the names and addresses of any witnesses having knowledge relevant to the allegations contained in the petition.

(4) Contain a specific prayer for commitment of the person to a hospital or to a receiving facility or program for treatment pursuant to Section 15(c) of this Act.

SECTION 5. Initial Hearing - Failure to Appear - Exceptions from Appearance Requirement.

(a) If the person named in the original petition is not confined at the time that the petition is filed, the court may:

(1) Enter an ex parte order directing the sheriff to serve the person with a copy of the petition together with a notice to appear for an initial hearing. Such hearing shall be set by the court within three (3) days, excluding weekends and holidays, of the filing of the original petition. If such person is duly served and fails to appear, the court shall issue an order of detention; or

(2) Dismiss the petition.

(b) The person named in the original petition is not required to appear and may be removed from the presence of the court upon a finding by the court

that the person is:

- (1) By reason of physical infirmity unable to appear; or
- (2) That such person's appearance would be detrimental to his mental health, well-being or treatment; or
- (3) That his conduct before the court is so disruptive that the proceedings cannot reasonably continue with him present.

(c) The petitioner shall appear before the referee or probate judge hearing said petition to substantiate the petition before the notice is issued. The court shall make a determination based on clear and convincing evidence that there is probable cause to believe that the person has a mental illness, disease or disorder and that one of the standards for involuntary commitment applies to the person. If such a determination is made, the person shall be committed for evaluation and a hearing pursuant to Section 9 of this Act shall be held within the period specified in Section 2 of this Act.

SECTION 6. Immediate Confinement - Initial Evaluation and Treatment.

(a) Whenever it appears that a person is homicidal, suicidal, or gravely disabled, as defined in Section 1 of this Act, and immediate confinement appears to be necessary to avoid harm to such person or others, an interested citizen may take said person to a hospital or a receiving facility or program. If no other safe means of transporting such individual is available, it shall be the responsibility of the sheriff of the county in which the individual is physically present to transport the individual. A petition as provided in Section 4 of this Act shall be filed in the Probate Court of the county in which the person resides or is detained within seventy-two (72) hours, excluding weekends and holidays, and a hearing as provided in Section 5(a)(1) of this Act shall be held.

(b) If the person is transported to a hospital or receiving facility or program, or the office of a licensed physician of the State of Arkansas, or of the federal government, either salaried or self-employed, for purposes of initial evaluation and treatment, then the hospital or receiving facility or program, or physician may detain such person for initial evaluation and treatment provided:

- (1) The person is immediately advised of his rights as provided in Section 8 of this Act, and
- (2) The person is determined by the treatment staff of the hospital

or receiving facility or program, or by the physician to be either homicidal, suicidal or gravely disabled, and

(3) A hearing pursuant to Section 5(a)(1) of this Act is held within the specified time period.

(c) Nothing herein shall prevent the person so detained from being released sooner than the period specified in Section 2 if in the judgment of the treatment staff of the hospital or of the receiving facility or of the treating physician the person does not require further mental health treatment. The court shall be immediately advised in writing of such release and shall dismiss the action.

SECTION 7. Evaluation - When Performed and By Whom - Transportation to Place of Evaluation.

(a) If a physician is not immediately available for the initial evaluation, the initial evaluation may be performed by an administrator's designee, working under medical supervision and direction. In such cases a supervising physician shall be consulted by telephone before any decision is made concerning the initial evaluation and treatment. Every person admitted to a hospital or a receiving facility or program under this provision shall be seen and evaluated personally by a physician within twenty-four (24) hours of detention. In all cases the evaluations required by the court for commitment pursuant to Section 9 of this Act shall be done only by a licensed and practicing physician within a federal facility or the State of Arkansas.

(b) If it is determined at the initial hearing that the person should be evaluated to determine the need for mental health services on an involuntary basis, the sheriff or family of such person, as the court shall direct, shall transport the person to the place of evaluation.

SECTION 8. Notification of Rights and Appointment of Counsel.

(a) Along with the copy of the Petition, and the copy of the Order directing appearance for an initial evaluation, or an Order of Detention, the person sought to be committed shall be served with a copy of the following statement of rights:

(1) That he has the right to effective assistance of counsel, including the right to a court-appointed attorney.

(2) That he and his attorney have a right to be present at all

significant stages of the proceedings and at all hearings; excepting no attorney shall be entitled to be present upon examination of the person by the physician or any member of the treatment staff pursuant to an evaluation, whether initially, or subsequently.

(3) That he has the right to present evidence in his own behalf.

(4) That he has the right to cross-examine witnesses who testify against him.

(5) That he has a right to remain silent.

(6) That he has a right to view and copy all petitions, reports, and documents contained in the court file.

(b) If it appears to the court that the person sought to be committed is in need of counsel, counsel shall be appointed immediately upon filing of the original petition. Whenever legal counsel is appointed by the court, such court shall determine the amount of the fee, if any, to be paid the attorney so appointed and issue an order for payment. The amount allowed shall not exceed one hundred fifty dollars (\$150.00) based upon the time and effort of the attorney in the investigation, preparation, and representation of the client at the court hearings.

The court shall have the authority to appoint counsel on a pro bono basis.

The quorum courts of each county shall appropriate funds for the purpose of payment of the attorney's fees provided for by this Act and upon presentment of a claim accompanied by an order of the probate court fixing the fee, the same shall be approved by the county court and paid in the same manner as other claims against the county are paid.

SECTION 9. Forty-Five Day Commitment - Hearing.

Within the period specified in Section 2 of this Act, a hearing shall be held. Such hearing must be conducted in public, open to the news media. All testimony must be taken under oath and preserved. All witnesses shall be subject to a penalty for perjury and each witness who shall testify shall be instructed by the hearing officer as to the penalty for perjury prior to testifying. Should any person be found guilty of giving false testimony that results in a person's wrongful involuntary commitment, he shall be liable for civil damages and subject to incarceration for not less than thirty (30) days. The court shall make a determination at that time whether clear and convincing

evidence has been presented that the person sought to be committed is either homicidal, suicidal, or gravely disabled as defined in Section 1 of this Act. If this burden of proof has been met, the court shall issue an order authorizing the hospital or receiving facility or program to detain the person for treatment for a maximum of forty-five (45) days. This Section shall be construed to allow the person sought to be committed to request treatment under the least restrictive alternative appropriate setting. If a hearing pursuant to this Section is not held within the period specified in Section 2, the person shall be released.

SECTION 10. Additional Periods of Commitment - Petitions - Hearing.

(a) Additional one hundred eighty (180) day commitment orders may be requested if, in the opinion of the treatment staff, a person committed remains suicidal or homicidal or gravely disabled. Additional one hundred eighty (180) day commitment periods may be requested by the treatment staff when it is their opinion that the person needs continued treatment and supervision without which the person would be likely to injure himself or others if discharged. The treatment staff may request additional commitment orders as they are deemed necessary.

(b) Procedure: Any request for periods of additional commitment pursuant to this Section shall be made by a petition verified by the treatment staff psychiatrist. Said petition shall set forth the facts and circumstances forming the basis for such request. Upon the filing of a petition for additional commitment all rights enumerated in Section 8 of this Act shall be applicable.

(c) Hearing: A hearing on the petition seeking additional commitment pursuant to this Section must be held before the expiration of the period of commitment. The hearing shall be open to the public and the news media, unless the person, sought to be additionally committed, shall request in writing that the hearing be closed. All written requests filed on behalf of the person sought to be additionally committed must be witnessed by the attorney who is representing the person involuntarily committed. All testimony shall be recorded under oath and preserved. The need for additional commitment shall be proven by clear and convincing evidence.

(d) New Original Petition: Nothing in this Section shall prevent a new original petition from being filed subsequent to the release of a person com-

mitted pursuant to this Act.

SECTION 11. Continuances.

Continuances requested by either party for any hearing provided for in this Act shall be granted only for good cause shown. Good cause includes obtaining a separate and independent psychiatric evaluation or expert testimony on behalf of the person sought to be committed or allowing hospitalization of such person for medical treatment not associated with the person's mental illness, disease or disorder.

SECTION 12. Conversion from Involuntary to Voluntary Status.

At any time during commitment a person may be converted to a voluntary status if the person's treating physician or treatment staff psychiatrist files a written statement of consent with the court. The court shall dismiss the action immediately upon the filing of said statement.

SECTION 13. Role of Prosecuting Attorney.

It shall be the duty of the prosecuting attorney's office in the county where the petition is filed to represent the petitioner, regardless of the petitioner's financial status, at all hearings held in the probate court pursuant to this Act, except those hearings pending before the magistrate or probate referee at the Arkansas State Hospital in Pulaski County, Arkansas. The Office of the Prosecutor Coordinator shall appear for and on behalf of the petitioner and State of Arkansas before the mental health magistrate or probate referee at the Arkansas State Hospital. Such representation shall be a part of the official duties of the Prosecuting Attorney or the Prosecutor Coordinator and the Prosecuting Attorney or the Prosecutor Coordinator shall be immune from civil liability in the performance of this official duty. Nothing in this Section shall prevent the petitioner from retaining his own counsel in these proceedings, in which case the Prosecuting Attorney or the Prosecutor Coordinator shall be relieved of the duty to represent the petitioner.

SECTION 14. Exclusion from Liability.

(a) Except in the case of gross negligence or willful misconduct, any person who transports a person with a mental illness, disease or disorder to a

hospital, to any commitment hearings, to a receiving facility or program or to a physician's office shall be immune from civil or criminal liability for any injuries sustained by the person transported.

(b) No officer, physician or other person shall be held criminally or civilly liable for his actions pursuant to this Act in the absence of proof of bad faith, malice, or gross negligence.

SECTION 15. Treatment.

(a) At all steps of the civil commitment proceeding the mental health treatments and conditions of treatment for the person named in the petition for commitment shall be no more harsh, hazardous or intrusive than necessary to achieve a successful treatment or objective for the person and shall involve no restrictions on physical movement or supervised, resident, out-patient or inpatient care except as reasonably necessary for the administration of treatment for the protection of the person or others from physical injury.

(b) Specific limitations on treatment during detention shall include the following:

(1) Detention under this Act may only be in a hospital or receiving facility or program as defined in Section 1 of this Act;

(2) During the initial period of evaluation and treatment, psychotherapy and oral or intermuscular medication may be used if the effects of such medication on the behavior of the individual do not exceed seventy-two (72) hours. Medication such as fluphenazine decanoate, commonly known as long acting medication, or electroconvulsive therapy or psychosurgery shall not be used during this period;

(3) Psychosurgery shall not be used during any involuntary commitment period if the person is committed to a receiving facility or program. Electroconvulsive therapy may be used against a patient's wishes only if the Probate Court is presented with clear and convincing proof that such treatment is necessary;

(4) Short and long acting medication may be used during the forty-five (45) and one hundred eighty (180) day commitments.

(c) If the court at a forty-five (45) or one hundred eighty (180) day commitment hearing finds by clear and convincing evidence that the person is in need of treatment, it shall issue an order committing the person to the

custody of the administrator or his designee for care and treatment within a receiving facility or program which is located within the person's geographic area of residence or to an appropriate hospital as defined in Section 1 of this Act.

(d) A treatment plan will be submitted to the committing court for approval at Section 9 and Section 10 hearings. The treatment plan will be submitted by the person's treatment staff of the receiving facility or program to which the person has been committed. The approved treatment plan shall be incorporated by reference as a part of the court's Order of Commitment.

(e) Notification shall be provided to the committing court by the person's treatment staff upon a change in the person's treatment plan if such a change results in the person being treated in a more restrictive setting or manner.

SECTION 16. Rights.

All rights granted under the U. S. Constitution and the Constitution of the State of Arkansas to a person admitted voluntarily or committed involuntarily to a hospital or to a receiving facility or program are guaranteed under this Act. A person's rights shall specifically include but are not limited to the following:

(1) To wear his own clothes; to keep his personal possessions including his toilet articles, unless during acutely suicidal, or agitated states this might prove dangerous to the person.

(2) To keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases.

(3) To have access to individual storage space for his private use.

(4) If hospitalized, to see visitors each day.

(5) To have reasonable access to a telephone, both to make and receive confidential calls.

(6) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.

(7) To refuse convulsive treatment including, but not limited to any electroconvulsive treatment, any treatment of the mental condition which depends on the induction of a convulsion by any means and insulin coma treatment, except as provided under (3) in Section 15(b).

(8) To refuse psychosurgery as defined in Section 1 of this Act.

- (9) To be respected as an individual with dignity and unique value.
- (10) To be informed of hospital or receiving facility or program rules and regulations applying to his conduct while receiving treatment.
- (11) To be fully informed of therapeutic regimens when asked to sign a treatment permit.
- (12) To be seen by the assigned physician and/or treatment staff without undue delay and to be seen at intervals thereafter.
- (13) To obtain from the physician or the treatment staff, complete current information concerning diagnosis, treatment and prognosis in terms that can be understood. The person has the right to know by name the physician responsible for coordination of his treatment.
- (14) To have all communications and records pertaining to care and treatment treated confidentially and not released without proper authorization.
- (15) To refuse to participate in human experimentation resource projects.
- (16) To refuse to be photographed for medical purposes.
- (17) To be visited and examined by physicians designated by the person, the family, or the court. The person shall be responsible for the expense incurred except when expenses are waived according to provisions of state law.
- (18) To examine and receive an explanation of any treatment bills regardless of source of payment.
- (19) To be placed in an adjunctive therapy program, if prescribed as part of the treatment program, depending upon availability of facilities.
- (20) If hospitalized, to be visited during established visiting hours by friends and relatives, and to be visited in private by the religious leader of his choice.
- (21) To file a complaint if there is evidence of discrimination because of race, color, sex, religion, or national origin.
- (22) To be offered another modality of treatment and to expect continuity of care.
- (23) To be free from harm, including unnecessary or excessive physical restraint, isolation, and medication. The giving of medication and/or refusal to administer medication shall not be used as punishment, or for the convenience of staff alone or in quantities that interfere with the treatment program.
- (24) To prompt medical care and treatment.
- (25) To religious freedom and practice.

(26) To physical exercise and recreational opportunities.

(27) To have access to legal counsel and to lawyer referral services necessary to enforce these rights.

(28) To have a printed copy of these rights supplied to him upon admission to a hospital or receiving facility or program and to have copies posted in conspicuous places accessible to persons receiving mental health treatment.

SECTION 17. Patient's Advocate.

The Deputy Director shall designate a patient's advocate for the three State Mental Health Facilities located in Little Rock, Benton, and Jonesboro.

The patient's advocate job duties shall consist primarily of:

(1) Ensuring that all patients are aware of their rights.

(2) Investigating complaints of patients.

(3) Assisting in training staff of facilities regarding patients' rights.

(4) Acting as advocate on behalf of patients who are unable to register a complaint because of their mental or physical condition.

(5) Performing other duties as directed by the Deputy Director.

He or she shall report directly to the Deputy Director.

SECTION 18. Return of Persons Absent from Treatment - Noncompliance with Treatment Plan - Effect on Order.

If any person committed to a receiving facility or program or other hospital for care pursuant to this Act absents himself from a receiving facility or program or hospital without leave or fails to comply with the court-approved treatment plan, the person will be returned, upon the request of the person's treatment staff, to the receiving facility or program or hospital by the sheriff, other law enforcement officers, or hospital or receiving facility or program security personnel without further proceedings. Notification shall be provided to the committing court by the person's treatment staff if a person absents himself without leave or fails to comply with the court-approved treatment plan. A person's noncompliance with the court-approved treatment plan or absenting himself from a receiving facility or program or hospital without leave shall not vacate an order; the order shall remain in effect until abated or changed by the issuing court or until the expiration of one (1) year.

SECTION 19. Transfer and Admission of Residents Who Become Ill in Another State.

The Deputy Director or designee shall have authority to authorize the transfer and admission to a receiving facility or program of any person who is a legal resident of the State and who may become mentally ill while a transient in another state, pursuant to Act 433 of 1971 (The Interstate Compact on Mental Health).

SECTION 20. Forms.

The Administrative Director of the Judicial Department of Arkansas shall prescribe all other forms reasonably necessary to carry out this Act, provided that the Deputy Director or designee may prescribe forms pertaining to preadmission history to accompany the person when presented for admission (to be waived in dire emergencies); said Deputy Director or designee shall assist the Administrative Director of the Judicial Department in prescribing forms for the required medical certificates. Substantial adherence to the prescribed forms will suffice in any instance.

SECTION 21. Liability for Charges.

Every person who is legally liable for the support of a person admitted to a receiving facility or program or hospital pursuant to this Act shall be liable jointly and severally with the estate of the person for the charges made by the receiving facility or program or hospital for the treatment of such patient, regardless of whether such person was a party to or consented to the commitment or admission of the person to a receiving facility or program or hospital and regardless of the extent of the estate of the person.

SECTION 22. Commitment Not an Adjudication of Incapacity.

No person admitted voluntarily or committed involuntarily to a receiving facility or program or hospital under this Act shall be considered incapacitated per se by virtue of such admission or commitment.

SECTION 23. Appeals.

All commitment orders authorized herein shall be considered final and appealable under rule 2 of the Arkansas Rules of Appellate Procedure.

SECTION 24. Habeas Corpus.

Nothing in this Act shall in any way restrict the right of any person to attempt to secure his freedom by a habeas corpus proceeding as provided by current Arkansas law.

SECTION 25. Appointment of Magistrates - Qualifications and Duties.

The Chief Justice of the Arkansas Supreme Court is hereby authorized to appoint one or more employees of the Judicial Department as magistrates among whose duties shall be to conduct hearings at the request of the appropriate probate judge for the involuntary commitment of persons to a receiving facility or program. The appropriate probate judge is the probate judge who ordered the person for psychiatric examination. Such magistrate shall be a person licensed to practice law in the State of Arkansas. The magistrate shall be considered an officer of the several probate courts of this State, and, as assigned by the Chief Justice of the Arkansas Supreme Court, be available to act in behalf of such probate courts at the commitment hearings. All rulings by the magistrate shall be subject to the review of the appropriate probate judge. All hearings conducted by the special magistrate provided for herein shall be conducted pursuant to this Act, and the patient shall have all rights and privileges granted by this Act.

SECTION 26. Authority/Duties of Division.

(a) To assure compliance of the Act, the Division of Mental Health Services of the Department of Human Services, through its authorized agents may visit or investigate any state mental health system program or facility to which persons are admitted or committed under this Act.

(b) The Division of Mental Health Services of the Department of Human Services, shall promulgate written procedures by July 1, 1987, which:

(1) designate receiving facilities and programs within prescribed geographic areas of the state for purposes of voluntary admissions or involuntary commitments under this Act;

(2) establish ongoing mechanisms for review and refinement of the state mental health system.

SECTION 27. Purpose and Policy.

(a) The purpose of this Act is to enable the Division of Mental Health of the Department of Human Services to assist in:

(1) Establishing, maintaining, and coordinating a comprehensive and effective system of services for persons with mental illness, disease or disorder who may be voluntarily admitted or involuntarily committed to mental health facilities and programs within the State.

(2) Reducing the occurrence, severity, and duration of mental disabilities.

(3) Preventing persons with mental illness from harming themselves or others.

(b) It is the policy of this state to provide access for persons with severe mental illness appropriate adequate and humane care which, to the extent possible while meeting the purposes of rehabilitation and treatment, is:

(1) Within each person's own geographic area of residence.

(2) Least restrictive of the person's freedom of movement and ability to function normally in society while being appropriate to the individual's capacity, and promoting the person's independence.

(3) Directed toward assuring movement through all treatment components to assure continuity of care.

(c) It is the policy of this state to maintain involuntary commitment laws to ensure that mental illness, disease or disorder in and of itself is insufficient to involuntarily admit any person into the mental health services system.

SECTION 28. Act 817 of 1979, as amended (Arkansas Statutes 59-1401 through 59-1424), Sections 1 and 2 of Act 34 of the First Extraordinary session of 1980, as amended (Arkansas Statutes 59-1425 and 59-1426), Section 16 of Act 593 of 1981 (Arkansas Statutes 59-1427), and Section 26 of Act 734 of 1981 (Arkansas Statutes 59-1428) are hereby repealed. All other laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 29. It is hereby found and determined by the General Assembly of the State of Arkansas that the present mental health laws pertaining to voluntary admission, involuntary commitment and other related issues are in need of revision. It is further found that for the effective administration of this

Act that this Act should become effective on July 1, 1987. Therefore an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall become effective on July 1, 1987.

